

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/WP.9

Informal single negotiating text (part IV)

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

non-governmental organizations having consultative status with the Economic and Social Council and the extension of an invitation to it in accordance with the above-mentioned General Assembly resolutions and in conformity with rule 66 of the rules of procedure:

CATEGORY II

Foundation for the Peoples of the South Pacific

DOCUMENT A/CONF.62/L.11/ADD.3

[Original: English]
[8 April 1976]

At its 63rd meeting, held on 8 April 1976, the Conference approved the inclusion of the following in the list of interested non-governmental organizations having consultative status with the Economic and Social Council and the extension of an invitation to it in accordance with the above-mentioned General Assembly resolutions and in conformity with rule 66 of the rules of procedure:

ROSTER

Commission to Study the Organization of Peace

DOCUMENT A/CONF.62/L.11/ADD.4

[Original: English]
[9 April 1976]

At its 64th meeting, held on 9 April 1976, the Conference approved the inclusion of the following in the list of interested non-governmental organizations having consultative status with the Economic and Social Council and the extension of an invitation to it in accordance with the above-mentioned General Assembly resolutions and in conformity with rule 66 of the rules of procedure:

ROSTER

Center for Inter-American Relations

DOCUMENT A/CONF.62/WP.9

Informal single negotiating text*

PART IV

(Text presented by the President of the Conference)

[Original: English]
[21 July 1975]

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INTRODUCTORY NOTE

At its 15th meeting held at Caracas on 21 June 1974, the Third United Nations Conference on the Law of the Sea approved the recommendations of the General Committee on the allocation of subjects and issues as contained in its first

* This text consists of four parts: parts I, II and III appear in document A/CONF.62/WP.8 (see *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. IV; United Nations publication, Sales No. E.75.V.10) and part IV in the present document.

report (A/CONF.62/28).¹ In that report the General Committee had recommended that "Settlement of disputes", item 21 of the list of subjects and issues, be dealt with by each committee in so far as it was relevant to their mandates. However, on account of its importance and interest to the Conference as a whole, it was left for the consideration of the Conference in plenary.

At its 55th plenary meeting on 18 April 1975, the Conference decided to request each of the chairmen of its three committees to prepare an informal single negotiating text covering the subjects and issues assigned to his Committee. In keeping with the spirit of this decision and by analogy it should be the President's duty to submit to the Conference an informal single negotiating text on any item that is not the exclusive concern of any of the main committees. As the subject of settlement of disputes would be an essential and vitally important element in the proposed convention, the President has deemed fit to present the attached informal single negotiating text in order to facilitate the process of negotiation. The text is based to a considerable extent on the work of the informal group on the settlement of disputes. Although it could not necessarily incorporate all the proposals that have been made, it seeks to blend, within the limits of practicality, the essence of the various alternatives.

This text has taken into account all the formal and informal discussions held so far, is informal in character and does not prejudice the position of any delegation nor does it represent any negotiated text or accepted compromise. It should therefore be quite clear that this negotiating text will serve as a procedural device and only provide a basis for negotiation. It must not in any way be regarded as affecting either the status of proposals already made by delegations or the right of delegations to submit amendments or new proposals.

It may be noted that the informal single negotiating text presented by the Chairman of the First Committee

¹ See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. III (United Nations publication, Sales No. E.75.V.5).

(A/CONF.62/WP.8/Part I) provides in article 24, paragraph 1, for the establishment of a tribunal as one of the principal organs of the proposed International Sea-Bed Authority and deals in article 32 with the jurisdiction, powers and functions, and composition of the tribunal and other related matters.

The provisions relating to the jurisdiction of the tribunal contained in article 32, paragraph 1 (a) would appear to be in conformity with paragraph 15 of General Assembly resolution 2749 (XXV), which contains the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction.

The Chairman of the Second Committee, in article 137 of his informal single negotiating text (A/CONF.62/WP.8/Part II) and the Chairman of the Third Committee, in article 37 of his text (A/CONF.62/WP.8/Part III), have not made special provision for the settlement of disputes.

It would be necessary for the Conference to decide whether there should be separate provision for the settlement of disputes relating to matters falling within the International Sea-Bed Authority's jurisdiction.

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* * *

Chapter . . . : Settlement of disputes

Having regard to the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations. . . .

Article 1

The Contracting Parties shall settle any dispute between them relating to the interpretation or application of the present Convention through the peaceful means indicated in Article 33 of the Charter of the United Nations.

Article 2

Nothing in this chapter shall impair the right of the Contracting Parties to agree at any time to settle a dispute between them which relates to the interpretation or application of the present Convention by any peaceful means of their own choice.

Article 3

If the Contracting Parties which are parties to a dispute relating to the interpretation or application of the present Convention have accepted, through a general, regional or special agreement, or some other instrument or instruments an obligation to settle such dispute by resort to arbitration or judicial settlement, any party to the dispute may refer it to arbitration or judicial settlement in accordance with such agreement or instruments in place of the procedure specified in this chapter, unless the parties agree otherwise.

Article 4

1. If a dispute arises between two or more Contracting Parties with respect to the interpretation or application of the present Convention, those Parties shall proceed expeditiously to exchange views regarding settlement of the dispute.

2. Similarly, such an exchange of views shall be held whenever a procedure under the present Convention, or another procedure chosen by the parties, has been terminated without a settlement of the dispute.

Article 5

If the Contracting Parties which are parties to a dispute have agreed to settle a dispute by a peaceful means of their own choice and have agreed on a time-limit for such proceedings, the procedure specified in this chapter shall apply only after the expiration of that time-limit, provided that no settlement has been reached and the agreement between the parties does not preclude any further procedure.

Article 6

Where a chapter of the present Convention provides a special procedure for settling all or some disputes relating to the interpretation or application of that chapter, the procedure specified in this chapter shall apply only after that special procedure has been concluded, provided that no settlement has been reached and the relevant chapter does not preclude any further procedure.

Article 7

1. Where no special procedure is provided for in other chapters of the present Convention, any Contracting Party which is party to a dispute relating to the interpretation or application of the present Convention may invite the other party or parties to the dispute to submit the dispute to conciliation in accordance with annex I A.

2. If the other party accepts this invitation, then any party to the dispute may set in motion the conciliation procedure which shall proceed in accordance with annex I A, subject to paragraph 3.

3. If a party to the dispute does not accept the invitation, or after accepting the invitation refuses, or within the time stipulated in annex I A fails, to appoint its members of the Conciliation Commission, or if the conciliators fail to agree to appoint a chairman, the party which has initiated the proceedings may terminate the proceedings by notifying the other party or parties to the dispute to this effect.

4. If the conciliation procedure is terminated in accordance with the preceding paragraph, or if the dispute is not settled by conciliation, either party to the dispute may resort to the procedure specified in this chapter.

Article 8

Subject to the preceding provisions of this chapter, any dispute relating to the interpretation or application of the present Convention which has not been settled in accordance with those provisions shall be dealt with in accordance with the provisions of articles 9 and 10 of this chapter. Any such dispute may be submitted to the tribunal having jurisdiction under these articles by application of a party to the dispute.

Article 9

1. In any dispute arising between Contracting Parties relating to the interpretation or application of the present Convention, the Law of the Sea Tribunal constituted in accordance with annex I C shall have jurisdiction, to the extent and in the manner provided for in this chapter, to decide upon the matters in dispute. The parties to the dispute shall be bound by the decisions of the Tribunal made in accordance with this chapter.

2. A Contracting Party may at any time declare that it recognizes as compulsory *ipso facto*, in relation to any other Contracting Party accepting the same obligation, the jurisdiction of an arbitral tribunal, to be constituted in accordance with annex IB, or of the International Court of Justice, in any

dispute relating to the interpretation or application of the present Convention. If both parties have made such declarations conferring jurisdiction on the same tribunal, then notwithstanding the provisions of paragraph 1, either party may submit the dispute to that tribunal and the parties to the dispute shall be bound by the decisions of that tribunal made in accordance with this chapter.

3. The declarations referred to in paragraph 2 shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the Contracting Parties.

4. Any declaration made under paragraph 2 shall be valid for a period of five years. Such a declaration shall be considered as renewed for a further period of five years and similarly thereafter, unless a notice to the contrary is received by the Secretary-General at least six months before the expiration of that period.

5. While proceedings are pending before a tribunal having jurisdiction under paragraphs 1 or 2, the expiration of a declaration, a new declaration or a change in a declaration shall not affect in any way the proceedings pending before such tribunal, unless all the parties agree otherwise.

Article 10

1. Subject to the provisions of articles 1 to 9 of this chapter, the tribunal which has jurisdiction over a Contracting Party under article 9, or the International Court of Justice as the case may be, shall be entitled to exercise its jurisdiction with respect to:

(a) Any dispute between Contracting Parties relating to the interpretation or application of the present Convention for which no special procedure has been provided in another chapter of the present Convention and in which no resort has been made to conciliation procedure under article 7 of this chapter;

(b) Any dispute between Contracting Parties relating to the interpretation or application of the present Convention which has not been settled by conciliation procedure under article 7 of this chapter or by a special procedure provided for in another chapter of the present Convention, unless that chapter expressly excludes further procedure under this chapter; and

(c) Any dispute in respect of which a clause in the present Convention, the rules or regulations enacted thereunder, or an agreement or arrangement concluded pursuant to the present Convention or related to its purposes, provides that such dispute be settled in accordance with the procedure specified in this chapter.

2. The jurisdiction under paragraph 1 (a) may not be exercised:

(a) If another chapter of the present Convention expressly excludes such jurisdiction with respect to any dispute relating to that chapter; or

(b) If another chapter of the present Convention provides any dispute relating to that chapter shall be dealt with in accordance with a specified annex to this chapter.

3. If a dispute has been submitted to a special procedure provided for in the present Convention, the findings of fact made in accordance with such procedure shall be conclusive upon the tribunal having jurisdiction under article 9 of this chapter, unless one of the parties presents positive proof to the satisfaction of the tribunal that a gross error has been committed.

4. Whenever a binding decision has been rendered as a result of resort to a special procedure which is provided for in

another chapter of the present Convention and with respect to which an appellate procedure is not expressly excluded, the jurisdiction of the tribunal or the Court competent under article 9 may be exercised only when one of the parties to the dispute presents a claim that the decision rendered under another chapter of the present Convention was invalid because of:

(a) Lack of jurisdiction;

(b) Infringement of basic procedural rules;

(c) Abuse or misuse of power; or

(d) Gross violation of the present Convention.

5. A claim under paragraph 4 must be submitted within three months from the date of the contested decision.

Article 11

1. When dealing with a dispute relating to chapters . . . of the present Convention, the tribunal or International Court of Justice as the case may be, exercising jurisdiction under articles 9 and 10 of this chapter may, at the request of one or more of the parties or on its own initiative, either

(a) Refer any scientific or technical matters to a committee of experts chosen from the list of qualified persons prepared in accordance with annex . . . ; or

(b) Select four technical assessors from the list mentioned in the preceding subparagraph, who shall sit with the tribunal or the Court throughout all the stages of the proceedings, but without the right to vote.

2. In a case referred to a committee of experts under subparagraph 1 (a), if the dispute is not settled on the basis of the committee's opinion, either party to the dispute may request that the tribunal or the Court proceed to consider the other aspects of the dispute, taking into consideration the findings of the committee and other pertinent information.

Article 12

1. The tribunal or the International Court of Justice as the case may be, to which a dispute has been submitted under article 9 of this chapter, shall, upon the request of a party to such dispute, have the power to indicate or prescribe, if it considers that circumstances so require and after giving the parties to the dispute an opportunity to be heard, such provisional measures as it considers appropriate to be taken to preserve the respective rights of the parties to the dispute or to prevent serious harm to the marine environment, pending final adjudication.

2. If proceedings have commenced for the settlement of a dispute under the present Convention, and the organ to which such dispute has been submitted has not been constituted or does not have the power to prescribe provisional measures and if two or more parties are in dispute as to the need for such provisional measures or as to the content or extent of such measures, the Law of the Sea Tribunal, acting in conformity with paragraph 1, shall have jurisdiction to prescribe such measures, which shall remain in force subject to review by the competent tribunal.

3. Notice of any provisional measures indicated or prescribed under this article shall be given forthwith to the parties to the dispute and to all Contracting Parties.

4. Any provisional measures indicated by the International Court of Justice, or prescribed by a tribunal under this article or an annex to this chapter, shall be binding upon the parties to the dispute.

Article 13

1. The tribunals specified in article 9 of this chapter shall be open to the Contracting Parties.

2. Access to the International Court of Justice shall be subject to the Articles 93 and 96 of the Charter of the United Nations and Articles 34, 35 and 63 of the Statute of the Court.

3. The provisions of this article shall be without prejudice to the access, specified in the present Convention, to any special procedure provided for in other chapters of the present Convention or any annex thereto.

4. The procedures for the settlement of disputes provided for in the present Convention shall be open to a State which is not a party to the present Convention, a territory which has participated as an observer in the Third United Nations Conference on the Law of the Sea, an international intergovernmental organization, or a natural or juridical person, on an equal footing with Contracting Parties, upon the deposit with the Secretary-General of the United Nations of a declaration that the State, territory, organization or person concerned accepts the provisions on the settlement of disputes contained in the present Convention, agrees to comply with any binding decision rendered thereunder, and undertakes to contribute to the expenses of the institutions for the settlement of disputes such equitable amount as the Contracting Parties shall determine from time to time after consultation with the State, territory, organization or person concerned.

5. Such declaration may include a general acceptance of the jurisdiction of the Law of the Sea Tribunal or of an arbitral tribunal, or in the case of a State having access to the International Court of Justice or the jurisdiction of that Court, in relation to any Contracting Party, other State, territory, organization or person accepting the same obligation.

6. Such jurisdiction may also be specifically accepted, with respect to any dispute relating to the interpretation or application of an agreement or arrangement concluded pursuant to the present Convention or related to its purposes, by an appropriate provision in such agreement or arrangement.

7. A party to the present Convention may at any time declare that with respect to any dispute to which this chapter is applicable, it accepts the jurisdiction of the Law of the Sea Tribunal or of an arbitral tribunal, or with respect to a State having access to the International Court of Justice the jurisdiction of that Court, in relation to one or more of the following categories:

(a) Any State, not a party to the present Convention which has accepted the same jurisdiction under paragraphs 4 to 6;

(b) Any territory which has participated as an observer in the Third United Nations Conference on the Law of the Sea and which has accepted the same jurisdiction under paragraphs 4 to 6;

(c) Any international intergovernmental organization which has accepted the same jurisdiction under paragraphs 4 to 6;

(d) Any natural or juridical person which has accepted the same jurisdiction under paragraphs 4 to 6.

8. A party to the present Convention may also specifically accept the jurisdiction of the machinery for the settlement of disputes specified in the present Convention in relation to any one or more of the categories enumerated in paragraph 7, with respect to any dispute relating to the interpretation or application of an agreement or arrangement concluded pursuant to the present Convention or related to its purposes, by an appropriate provision in such agreement or arrangement.

9. Any declarations, agreements or arrangements made under this article which provide for the jurisdiction of the machinery for the settlement of disputes specified in the present Convention shall be deposited with the Secretary-General of the United Nations. He shall transmit copies thereof, and of the declarations made under paragraph 4, to all the Contracting Parties and to any State, territory, organization or person which has made a declaration under paragraph 4.

Article 14

1. In the case of a dispute between two or more Contracting Parties relating to the exercise by a coastal State of its exclusive jurisdiction under the present Convention, a Contracting Party shall not be entitled to submit such dispute to the procedure specified in articles 9 and 10 of this chapter, if local remedies have not been exhausted as required by international law.

2. In any other dispute relating to the interpretation or application of the present Convention, a Contracting Party which has taken measures alleged to be contrary to the present Convention shall not be entitled to object to the jurisdiction of the tribunal or the Court under articles 9 and 10 of this chapter solely on the ground that local remedies have not been exhausted as required under international law.

Article 15

1. In case of the detention by the authorities of a Contracting Party of a vessel flying the flag of another Contracting Party, or of its crew or passengers, in connexion with an alleged violation of the present Convention, the State of the vessel's registry shall have the right to bring the question of detention before the Law of the Sea Tribunal in order to secure prompt release of the vessel or of its crew or passengers in accordance with the applicable provisions of the present Convention, including the presentation of a bond, and without prejudice to the merits of any case against the vessel, or its crew or passengers.

2. A decision of the tribunal that the vessel, or its crew or passengers, be released shall be promptly complied with by the Contracting Party concerned.

Article 16

1. In any dispute submitted to the tribunal or International Court of Justice as the case may be, having jurisdiction under articles 9 and 10 of this chapter, the tribunal or the Court shall apply the law of the present Convention, other rules of international law, and any other applicable law.

2. The tribunal or the Court shall ensure that the rule of law is observed in the interpretation and application of the present Convention.

3. The provisions of this chapter shall not prejudice the right of the parties to the dispute to agree that the dispute be settled *ex aequo et bono*.

Article 17

1. No decision rendered, settlement effected or measure prescribed or indicated in relation to any dispute submitted to a tribunal, the International Court of Justice, a committee or commission under the present Convention or an annex thereto shall have any binding force except between the parties and in respect of that particular dispute.

2. Any decision rendered, finding made, or measure prescribed by a commission or committee constituted in

accordance with the special procedures provided for in the present Convention or an annex thereto shall not constitute a precedent except for that particular commission or committee.

Article 18

1. Nothing contained in the present Convention shall require any Contracting Party to submit to the dispute settlement procedures provided for in the present Convention any dispute arising out of the exercise by a coastal State of its exclusive jurisdiction under the present Convention, except when it is claimed that a coastal State has violated its obligations under the present Convention: (i) by interfering with the freedoms of navigation or overflight, or the freedom to lay submarine cables and pipelines, or related rights and duties of other Contracting Parties; (ii) by refusing to apply international standards or criteria established by the present Convention or in accordance therewith, provided that the international standards or criteria in question shall be specified.

2. When ratifying the present Convention, or otherwise expressing its consent to be bound by it, a Contracting Party may declare that it does not accept some or all of the procedures for the settlement of disputes specified in the present Convention with respect to one or more of the following categories of disputes:

(a) Disputes arising out of the exercise of discretionary rights by a coastal State pursuant to its regulatory and enforcement jurisdiction under the present Convention;

(b) Disputes concerning sea boundary delimitations between adjacent States, or those involving historic bays or titles, provided that the State making such a declaration shall indicate therein a regional or other third-party procedure, entailing a binding decision, which it accepts for the settlement of these disputes;

(c) Disputes concerning military activities, including those by Government vessels and aircraft engaged in non-commercial service, it being understood that law enforcement activities pursuant to the present Convention shall not be considered military activities;

(d) Disputes in respect of which the Security Council of the United Nations is exercising the functions assigned to it by the Charter of the United Nations, unless the Security Council has determined that specified proceedings under the present Convention would not interfere with the exercise of such functions in a particular case.

3. If the parties to a dispute are not in agreement as to the applicability of paragraphs 1 or 2 to a particular dispute, this preliminary question may be submitted for decision to the tribunal having jurisdiction under articles 9 and 10 of this chapter by application of a party to the dispute.

4. A Contracting Party, which has made a declaration under paragraph 2, may at any time withdraw it in whole or in part.

5. Any Contracting Party which has made a declaration under paragraph 2 shall not be entitled to invoke any procedure excepted under such declaration in relation to any excepted category of dispute against any other Contracting Party.

6. If one of the Contracting Parties has made a declaration under paragraph 2 (b), any other Contracting Party may compel the declarant to refer the dispute to the regional or other third-party procedure specified in such declaration.

ANNEX I A

Conciliation

Article 1

Any reference of a dispute to the conciliation procedure provided for in this annex shall be subject to the provisions of article 7 of chapter . . . of the present Convention.

Article 2

A list of conciliators shall be drawn up and maintained by the Registrar. To this end, every Contracting Party shall be entitled to nominate four conciliators, each of whom shall be a person enjoying the highest reputation for fairness, competence and integrity. The names of the persons so nominated shall constitute the list. If at any time the conciliators nominated by any Contracting Party in the list so constituted shall be less than four, then that Contracting Party shall be entitled to make further nominations as necessary. The term of a conciliator, including that of any conciliator nominated to fill a casual vacancy, shall be five years and may be renewed. A conciliator whose term expires shall continue to fulfil any function for which he shall have been chosen under the following article.

Article 3

Whenever a dispute is referred to conciliation under article 7 of chapter . . . of the present Convention, the party or parties initiating this procedure shall notify the Registrar, who shall notify all the parties of such reference. The Registrar shall assist the parties in the establishment of a Conciliation Commission, which shall be constituted as follows:

1. The State or States initiating the procedure shall appoint:

(a) One conciliator of the nationality of that State or of one of those States, who may or may not be chosen from the list referred to in article 2 of this annex; and

(b) One conciliator not of the nationality of that State or of any of those States, who shall be chosen from the list.

2. The State or States constituting the other party to the dispute shall appoint two conciliators in the same way.

3. The four conciliators chosen by the parties shall be appointed within 30 days following the date on which the Registrar issues the notification and shall, within 30 days following the date of the last of their own appointments, appoint a fifth conciliator chosen from the list, who shall be chairman.

4. If the appointment of the chairman or of any of the other conciliators has not been made within the period prescribed above for such appointment, it shall be made by the Secretary-General of the United Nations within thirty days following the expiry of that period. The appointment of the chairman shall be made by the Secretary-General from the list referred to in article 2. Any of the periods within which appointments must be made may be extended by agreement between the parties to the dispute.

5. Any vacancy shall be filled in the manner prescribed for the initial appointment.

Article 4

The Conciliation Commission shall decide its own procedure. The Commission, with the consent of the parties to the dispute, may invite any Contracting Party to submit to it its views orally or in writing. Decisions and recommendations of the Commission shall be made by a majority vote of the five members.

Article 5

The Commission may draw the attention of the parties to the dispute to any measures which might facilitate an amicable settlement.

Article 6

The Commission shall hear the parties, examine their claims and objections, and make proposals to the parties with a view to reaching an amicable settlement of the dispute.

Article 7

The Commission shall report within 12 months of its constitution. Its report shall be deposited with the Registrar and transmitted by him to the parties to the dispute. The report of the Commission, including any conclusions stated therein regarding the facts or questions of law, shall not be binding upon the parties and it shall have no other character than that of recommendations submitted for the consideration of the parties in order to facilitate an amicable settlement of the dispute.

Article 8

The Registrar shall provide the Commission with such assistance and facilities as it may require. The fees and expenses of the Commission shall be borne by the parties to the dispute.

Article 9

The "Registrar" referred to in this annex shall be the Registrar of the Law of the Sea Tribunal appointed in accordance with annex IC to this chapter.

ANNEX I B**Arbitration***Article 1*

Any reference of a dispute to the arbitration procedure provided for in this annex shall be subject to the provisions of chapter . . . of the present Convention.

Article 2

Unless the parties agree otherwise, the arbitral tribunal shall be constituted as follows:

1. Subject to the provisions of paragraph 7, the Arbitral Tribunal shall consist of five members. Each Contracting Party which is a party to the dispute shall appoint one member, who may be its national. The other members shall be appointed by agreement from among the nationals of third States. These other members must be of different nationalities and must not be habitually resident in the territory, nor be in the service of any of the parties to the dispute. The parties to the dispute shall appoint the President of the Tribunal from among these three members.

2. The party or parties requesting arbitration shall, at the time of making the request, each appoint a member of the Tribunal and shall submit a statement of the claim which is being submitted to arbitration and the grounds on which such claim is based.

3. If within a period of 30 days from the date of receipt of the request for arbitration the other party or parties to the dispute have not appointed a member, then upon the request of the party or parties which initiated the procedure of arbitration, the appointment shall be made in accordance with paragraph 5.

4. If within a period of 90 days from the date of receipt of the request for arbitration, the parties are unable to reach agreement on the appointment of one or more of the members of the Tribunal to be designated jointly or on the appointment of the President, the remaining appointment or appointments shall be made in accordance with paragraph 5.

5. Unless the parties agree that the task of making appointments under paragraphs 3 and 4 be entrusted to some person or a third State chosen by the parties, the President of the Law of the Sea Tribunal, constituted in accordance with annex I C of the present chapter, shall be entrusted with the task of making such appointments. If the President is prevented from acting or is a national of one of the parties to the dispute, this task shall be entrusted to the Vice-President. If the Vice-President is prevented from acting or is a national of one of the parties to the dispute, this task shall be entrusted to the next senior member of the Law of the Sea Tribunal who is not a national of the parties. The President, Vice-President, other member of the Law of the Sea Tribunal, or the person or third State, chosen by the parties, shall make such appointments within a period of 60 days after receipt

of the request, after consultations with the parties and appropriate international organizations, from among persons experienced in law of the sea questions and having special expertise in the subject matter of the dispute.

6. Vacancies which may occur as a result of death, resignation or any other cause shall be filled in the manner provided for the original appointments.

7. Should a dispute arise between more than two States, and should there be several parties in the same interest, they shall appoint one member of the Tribunal jointly by agreement. Should there be, however, several parties having separate interests, each of them shall appoint one member of the Tribunal, but in such a case the number of members of the Tribunal appointed separately by the parties shall always be smaller by one than the number of members of the Tribunal to be appointed from among the nationals of other States. In disputes involving more than two States the provisions of paragraphs 1-6 shall prevail to the maximum extent possible. In case of a dispute about the applicability of this paragraph, the Law of the Sea Tribunal shall decide that question.

Article 3

In the absence of an agreement to the contrary between the parties to the dispute, the Arbitral Tribunal shall lay down its own procedure assuring to each party a full opportunity to be heard and to present its case. If the Tribunal is unable to agree on its rules of procedure, Part IV of the Hague Convention for the Pacific Settlement of International Disputes of 1907 shall apply.

Article 4

Upon the request of any party or parties to the dispute, the Arbitral Tribunal shall have the power to prescribe, if it considers that circumstances so require and after giving the parties to the dispute an opportunity to be heard, such provisional measures as it considers appropriate to be taken to preserve the respective rights of the parties to the dispute or to prevent serious harm to the marine environment, pending the final decision of the Tribunal. Such measures shall be binding upon the parties.

Article 5

The parties to the dispute shall facilitate the work of the Arbitral Tribunal, and in particular, in accordance with their law and using all means at their disposal shall:

(a) Provide the Tribunal with all relevant documents and information; and

(b) Enable the Tribunal when necessary to summon and receive the evidence of witnesses or experts, to enter their territories or to visit the localities in question.

Article 6

Unless the Arbitral Tribunal determines otherwise because of the particular circumstances of the case, the expenses of the Tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares.

Article 7

Decisions of the Arbitral Tribunal shall be taken by a majority vote. The absence or abstention of one or two of the members shall not constitute an impediment to the Tribunal reaching a decision. In the event of an equality of votes, the President shall have a casting vote.

Article 8

Absence or default of any party to the dispute shall not constitute an impediment to the procedure. Before deciding in favour of any party, the Arbitral Tribunal must satisfy itself not only that it has jurisdiction over the dispute but also that the claim is well founded in fact and law.

Article 9

The award of the Arbitral Tribunal shall be accompanied by a statement of reasons. Any member of the Tribunal may attach a separate or dissenting opinion to the award.

Article 10

The award shall be final and without appeal. The parties to the dispute shall immediately comply with the award.

Article 11

Any controversy which may arise between the parties to the dispute as regards the interpretation or execution of the award may be submitted by either party for decision to the Arbitral Tribunal which made the award, or, if not available, to another Arbitral Tribunal constituted for this purpose in the same manner as the original Tribunal.

ANNEX I C

Statute of the Law of the Sea Tribunal

Article 1

1. The Law of the Sea Tribunal shall be constituted and shall function in accordance with the provisions of the Law of the Sea Convention and the present Statute.

2. Any reference of a dispute to the Tribunal shall be subject to the provisions of chapter . . . of the present Convention.

CHAPTER I. ORGANIZATION OF THE TRIBUNAL

Article 2

1. The Tribunal shall be composed of a body of 15 independent members, elected regardless of their nationality from among persons of high moral character, and of recognized competence in law of the sea matters.

2. In the Tribunal as a whole the representation of the principal legal systems of the world and equitable geographical distribution shall be assured.

Article 3

1. No two members of the Tribunal may be nationals of the same State, and a person who for the purposes of membership in the Tribunal could be regarded as a national of more than one State shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.

2. The members of the Tribunal shall be elected according to the following pattern:

- (i) Four from the Group of African States;
- (ii) Three from the Group of Asian States;
- (iii) Two from the Group of Eastern European States;
- (iv) Three from the Group of Latin American States;
- (v) Three from the Group of Western European and Other States, subject to the following provisos:

(a) No Group shall have more than one member for every 10 States of the Group who are parties to the Convention as of the date of the election;

(b) Each Group shall have a minimum of two members;

(c) Every State party to the Convention shall determine the Group to which it has decided to belong for the purpose of the election of members to the Tribunal and shall have communicated such decision to the Secretary-General of the United Nations, in the case of the first election and the Registrar of the Law of the Sea Tribunal in subsequent elections, who shall notify all the Contracting Parties.

3. If the total membership of 15 is not realized through the application of the provisions of paragraph 2 (a) of this article, the remainder shall be elected in accordance with the provisions of paragraph 4 of article 4 of this chapter.

Article 4

1. Each Contracting Party may nominate not more than two persons having the qualifications prescribed in article 2. The members of the Tribunal shall be elected from a list of persons thus nominated.

2. At least three months before the date of the election, the Secretary-General of the United Nations in the case of the first election and the Registrar of the Tribunal in the case of subsequent elections shall address a written invitation to the Contracting Parties to submit their nominations for members of the Tribunal within two months. He shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the Contracting Parties which have nominated them, and shall submit it to the Contracting Parties before the seventh day of the last month before the date of each election.

3. The first election shall be held no later than six months after the date of entry into force of the present Convention.

4. Elections of the members of the Tribunal shall be by secret ballot. They shall be held at a meeting of the Contracting Parties convened by the Secretary-General of the United Nations in the case of the first election and by procedure agreed to by the Contracting Parties in the case of subsequent elections. At that meeting, for which two thirds of the Contracting Parties shall constitute a quorum, the persons elected to the Tribunal shall be those nominees who obtain the largest number of votes and an absolute majority of votes of the Contracting Parties present and voting.

Article 5

1. The members of the Tribunal shall be elected for nine years and may be re-elected; provided, however, that of the judges elected at the first election, the terms of five members shall expire at the end of three years and the terms of five more members shall expire at the end of six years.

2. The members of the Tribunal whose terms are to expire at the end of the above-mentioned initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General of the United Nations immediately after the first election has been completed.

3. The members of the Tribunal shall continue to discharge their duties until their places have been filled. Though replaced, they shall continue to function in any proceedings commenced at the time of their replacement.

4. In the case of the resignation of a member of the Tribunal, the resignation shall be addressed to the President of the Tribunal. The place becomes vacant on the receipt of the letter of resignation.

Article 6

1. Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision; the Registrar shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in article 4, and the date of the election shall be fixed by the President of the Tribunal after consultation with Contracting Parties.

2. A member of the Tribunal elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

Article 7

1. No member of the Tribunal may exercise any political or administrative function, or associate actively with or be financially interested in any of the operations of any enterprise concerned with the exploration or exploitation of the resources of the sea or the sea-bed or other commercial use of the sea or the sea-bed.

2. Any doubt on this point shall be decided by a majority of the other members of the Tribunal present.

Article 8

1. No member of the Tribunal may act as agent, counsel, or advocate in any case.

2. No member may participate in the decision of any case in which he has previously taken part as agent, counsel, or advocate for one of the parties, or as a member of a national or international court, or in any other capacity.

3. Any doubts on these points shall be decided by a majority of the other members of the Tribunal present.

Article 9

If, in the unanimous opinion of the other members of the Tribunal, a member has ceased to fulfil the required conditions, the President of the Tribunal shall declare the seat vacant.

Article 10

The members of the Tribunal, when engaged on the business of the Tribunal, shall enjoy diplomatic privileges and immunities.

Article 11

Every member of the Tribunal shall, before taking up his duties, make a solemn declaration in open session that he will exercise his powers impartially and conscientiously.

Article 12

1. The Tribunal shall elect its President and Vice-President for three years; they may be re-elected.

2. The Tribunal shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.

Article 13

1. The seat of the Tribunal shall be the same as that of the International Sea-Bed Authority, provided that the Tribunal shall have the right to sit and exercise its functions elsewhere whenever the Tribunal considers it desirable.

2. The President and the Registrar shall reside at the seat of the Tribunal.

Article 14

1. Nine members shall be sufficient to constitute the Tribunal. Subject to the provisions of article 17 the President of the Tribunal shall determine which members shall participate in the consideration of a particular dispute.

2. The Tribunal may from time to time form one or more chambers, composed of three or more members as the Tribunal may determine, for dealing with particular categories of dispute, such as disputes relating to fishing, sea-bed exploration or exploitation, marine pollution or scientific research. The members of each chamber shall be elected by the Tribunal from amongst its members, having regard to any special knowledge, expertise or previous experience which any of the members of the Tribunal may have in relation to the category of disputes for which the chamber has been formed. After each election, the Registrar shall communicate to all the Contracting Parties the names of the members of the Tribunal assigned to various chambers.

3. The Tribunal may at any time form a chamber for dealing with a particular dispute. The composition of such a chamber shall be determined by the Tribunal with the approval of the parties.

4. Disputes shall be heard and determined by the chambers provided for in this article, unless a party requests that the dispute be considered by the Tribunal.

5. A judgement given by any of the chambers provided for in this article and article 15 shall be considered as rendered by the Tribunal.

Article 15

With a view to the speedy dispatch of business, including the issuance of provisional measures under article 26, the Tribunal shall form annually a chamber composed of three or more members which, at the request of the parties, may hear and determine disputes by summary procedure. Two alternative members shall be selected for the purpose of replacing members who are unable to participate in a particular proceeding.

Article 16

1. The Tribunal shall frame rules for carrying out its functions. In particular it shall lay down rules of procedure.

2. When a dispute involves technical questions, such as safety of navigation, ship construction, pollution, scientific research, fishing or sea-bed exploration or exploitation, the Tribunal, or the chamber dealing with the dispute, shall be assisted in its consideration of the case by two or more technical assessors sitting with it but without the right to vote. These assessors shall be chosen by the President of the Tribunal from the list of qualified persons prepared pursuant to the Rules of the Tribunal.

3. The Tribunal shall, whenever it deems it desirable or at the request of the parties to a dispute, refer technical issues of fact to a fact-finding board for non-binding advice. The members of such a board shall be selected from the list provided for in paragraph 2 of this article.

Article 17

1. Members of the nationality of any of the parties to a dispute shall retain their right to participate as members of the Tribunal.

2. If the Tribunal hearing any dispute includes a member of the nationality of one of the parties, any other party to the dispute may choose a person to participate as a member of the Tribunal.

3. If the Tribunal hearing any dispute does not include a member of the nationality of the parties, each of these parties may proceed to choose a member as provided in paragraph 2 of this article.

4. The provisions of this article shall apply to articles 14 and 15. In such cases, the President shall request specified members of the Tribunal forming the chamber, as many as necessary, to give place to the members of the Tribunal of the nationality of the parties concerned, and, failing such, or if they are unable to be present, to the members specially chosen by the parties.

5. Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt on this point shall be settled by the decision of the Tribunal.

6. Members chosen as laid down in paragraphs 2, 3 and 4 of this article shall fulfil the conditions required by article 2, paragraph 2 of article 8 and article 11. They shall participate in the decision on terms of complete equality with their colleagues.

Article 18

1. Each member of the Tribunal shall receive an annual salary and a special allowance in respect of each dispute in the consideration of which he participates.

2. The President shall receive a special annual allowance.

3. The Vice-President shall receive a special allowance for every day on which he acts as President.

4. The members chosen under article 17, other than members of the Tribunal, shall receive compensation for each day on which they exercise their functions.

5. These salaries, allowances, and compensation shall be fixed from time to time at a meeting of the Contracting Parties, taking into account the workload of the Tribunal. They may not be decreased during the term of office.

6. The salary of the Registrar shall be fixed at a meeting of the Contracting Parties on the proposal of the Tribunal.

7. Regulations made at the meeting of the Contracting Parties shall fix the conditions under which retirement pensions may be given to members of the Tribunal and to the Registrar, and the conditions under which members of the Tribunal and Registrar shall have their travelling expenses refunded.

8. The above salaries, allowances, and compensation shall be free of all taxation.

Article 19

The expenses of the Tribunal shall be borne by the Contracting Parties, States not parties to the present Convention, territories which participated as observers at the Third United Nations Conference on the Law of the Sea, international intergovernmental organizations, and natural and juridical persons having access to the Tribunal in such a manner as shall be decided at a meeting of the Contracting Parties.

CHAPTER II. COMPETENCE OF THE TRIBUNAL

Article 20

States, territories which participated as observers in the Third United Nations Conference on the Law of the Sea, international intergovernmental organizations, and natural and juridical persons may be parties before the Tribunal in any case expressly provided for in the present Convention or in an international agreement, public or private, accepted by all the parties to the dispute.

Article 21

1. The Tribunal shall be open to the Contracting Parties, to other States, to territories which participated as observers at the Third United Nations Conference on the Law of the Sea, to international intergovernmental organizations, and to natural and juridical persons, in accordance with article 13 of chapter

2. When a State which is not a party to this Convention, or a territory which participated as observer at the Third United Nations Conference on the Law of the Sea, or an international intergovernmental organization or person is a party to a dispute, the Tribunal shall fix the amount which that party is to contribute towards the expenses of the Tribunal. This provision shall not apply if such State, territory, organization, or person is bearing a share of the expenses of the Tribunal.

Article 22

The jurisdiction of the Tribunal shall comprise all disputes submitted to it in accordance with this Convention and all matters specifically provided for in any other international agreement, public or private, which confers jurisdiction on the Tribunal, as specified in articles 10 and 13 of chapter . . . of the present Convention.

Article 23

Subject to article 3 of chapter . . . of the present Convention, whenever a treaty or convention already in force provides for reference to a special tribunal of a subject-matter covered by the present Convention, the parties to such a treaty or convention may agree to refer the matter to the Law of the Sea Tribunal.

Article 24

The Tribunal shall decide all disputes submitted to it in accordance with article 16 of chapter . . . of the present convention.

CHAPTER III. PROCEDURE

Article 25

1. Disputes are brought before the Tribunal, as the case may be, either by the notification of the special agreement or by a written application addressed by a party or parties to the dispute to the Registrar. In either case the subject of the dispute and the parties shall be indicated.

2. The Registrar shall forthwith communicate the application to all concerned.

3. He shall also notify all Contracting Parties.

Article 26

1. The Tribunal shall, upon the request of a party to the dispute, have the power to prescribe, if it considers that circumstances so require and after giving the parties to the dispute an opportunity to be heard, such provisional measures as it considers appropriate to be taken to preserve the respective rights of the parties to the dispute or to prevent serious harm to the marine environment, pending final adjudication.

2. If the Tribunal is not in session, the provisional measures shall be prescribed by the Chamber of Summary Procedure to be established under article 15 of this Statute.

3. Notice of the measures prescribed by the Tribunal shall forthwith be given to the parties and to all Contracting Parties.

4. The interim measures prescribed by the Tribunal, or its chamber, shall be binding upon the parties to the dispute.

Article 27

The Tribunal shall make orders for the conduct of the case, shall decide the form and time in which each party must present its arguments, and make all arrangements connected with the receiving of evidence.

Article 28

1. Whenever one of the parties does not appear before the Tribunal, or fails to defend its case, the other party may call upon the Tribunal to decide in favour of its claim.

2. The Tribunal must, before doing so, satisfy itself, not only that it has jurisdiction, but also that the claim is well founded in fact and law.

Article 29

1. All questions shall be decided by a majority of the members of the Tribunal who are present.

2. In the event of an equality of votes, the President or the member who acts in his place shall have a casting vote.

Article 30

1. The judgement shall state the reasons on which it is based.

2. It shall contain the names of the members of the Tribunal who have taken part in the decision.

3. If the judgement does not represent in whole or in part the unanimous opinion of the members of the Tribunal, any member shall be entitled to deliver a separate opinion.

Article 31

The decision of the Tribunal has no binding force except between the parties and in respect of that particular dispute.

Article 32

1. Should a State, a territory which participated as an observer at the Third United Nations Conference on the Law of the Sea, an international intergovernmental organization or person consider that it has an interest of a legal nature which may be affected by the decision in any dispute, it may submit a request to the Tribunal to be permitted to intervene.

2. It shall be for the Tribunal to decide upon this request, subject to the provisions of article 13 of chapter . . . of the present Convention.

Article 33

1. Whenever the interpretation or application of the present Convention is in question, the Registrar shall notify all Contracting Parties forthwith.

2. Every Contracting Party so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgement will be equally binding upon it.

Article 34

The judgement is final and without appeal. In the event of dispute as to the meaning or scope of the judgement, the Tribunal shall construe it upon the request of any party.

Article 35

Unless otherwise decided by the Tribunal, each party shall bear its own costs.

CHAPTER IV. AMENDMENT

Article 36

1. Amendments to the present Statute shall be effected by the same procedure as is provided by the Law of the Sea Convention for amendments to that Convention.

2. The Tribunal shall have power to propose such amendments to the present Statute as it may deem necessary, through written communications to the Contracting Parties, for consideration in conformity with the provisions of paragraph 1 of this article.

ANNEX II A

Special procedures—Fisheries

Article 1

Any dispute between two or more Contracting Parties concerning the application of articles . . . * of the present Convention, if not settled by negotiation, shall, at the request of any of the parties to the dispute, be submitted to a special committee of five members appointed by agreement between the parties and selected from a list of experts on legal, administrative or scientific aspects of marine fisheries, established by the United Nations Food and Agriculture Organization.

Article 2

Failing agreement among the parties within a period of three months of the request for settlement of the dispute, the members of the special committee shall, at the request of any party to the dispute, be appointed within a further period of three months by the Director-General of the United Nations Food and Agriculture Organization, in consultation with the parties to the dispute.

Article 3

Each Contracting Party may designate, for inclusion in the list of experts established by the United Nations Food and Agriculture Organization, six duly qualified persons specializing in the: (a) legal, (b) administrative, and (c) scientific aspects of fisheries.

Article 4

The special committee shall so organize its own procedures as to ensure that each party has the opportunity to be heard and to present its case. Failing agreement by the parties it shall also decide how the costs and expenses are to be apportioned between the parties to the dispute, failing agreement by the parties on this matter.

* Articles relating to fisheries.

Article 5

The special committee shall, upon the request of a party to the dispute, have the power to prescribe, if it considers that circumstances so require and after giving the parties to the dispute an opportunity to be heard, such provisional measures as it considers appropriate to be taken to preserve the respective rights of the parties to the dispute or to prevent serious harm to the marine environment, pending its final decision. These measures shall be binding on the parties.

Article 6

The special committee shall give its decision within five months of the date of appointment of its members, unless it decides that it is necessary to extend the time-limit for a further period which shall not exceed three months.

Article 7

In reaching its decisions, the special committee shall comply with articles and with the rules of general international law and any special agreements reached between the parties to the dispute with a view to settling the dispute.

Article 8

The decisions of the special committee shall be adopted by a majority vote and shall be binding on the parties to the dispute.

Article 9

The parties concerned may agree to request the special committee to carry out an investigation and establish the facts giving rise to any dispute concerning the interpretation or the application of the provisions of articles . . . * of the present Convention. In this case, the findings of the special committee shall be considered as conclusive. The special committee may, on this occasion, formulate recommendations which, without having the force of a decision, shall constitute the basis for a review, by the parties concerned, of the question giving rise to the dispute.

ANNEX II B

Special procedures—Pollution

Article 1

Any dispute between two or more Contracting Parties concerning the application of articles . . . ** of the present Convention, if not settled by negotiation, shall, at the request of any of the parties to the dispute, be submitted to a special committee of five members appointed by agreement between the parties and selected from a list of experts on scientific and technical marine pollution problems established by the Inter-Governmental Maritime Consultative Organization.

Article 2

Failing agreement among the parties within a period of three months, the members of the special committee shall, at the request of any party to the dispute, be appointed within a further period of three months by the Secretary-General of the Inter-Governmental Maritime Consultative Organization, in consultation with the parties to the dispute.

Article 3

Each Contracting Party may designate, for inclusion in the list of experts established by the Inter-Governmental Maritime Consultative Organization, two persons whose competence in matters of

** Articles relating to pollution.

pollution control and conservation of the marine environment is established and generally recognized.

Article 4

The special committee shall so organize its own procedures as to ensure that each party has the opportunity to be heard and to present its case. Failing agreement by the parties it shall also decide how the costs and expenses are to be apportioned between the parties to the dispute, failing agreement by the parties on this matter.

Article 5

The special committee shall, upon the request of a party to the dispute, have the power to prescribe, if it considers that circumstances so require and after giving the parties to the dispute an opportunity to be heard, such provisional measures as it considers appropriate to be taken to preserve the respective rights of the parties to the dispute or to prevent serious harm to the marine environment, pending its final decision. These measures shall be binding on the parties.

Article 6

The special committee shall give its decision within five months of having been set up. In an emergency, this period may be reduced by agreement between the parties or by a decision of the committee.

Article 7

In reaching its decisions, the special committee shall comply with these articles and with the rules of general international law and any special agreements reached between the parties to the dispute with a view to settling the dispute.

Article 8

The decisions of the special committee shall be adopted by a majority vote and shall be binding on the parties to the dispute.

Article 9

The parties concerned may agree to request the special committee to carry out an investigation and establish the facts giving rise to any dispute concerning the interpretation or the application of the provisions of articles . . . * of the present Convention. In this case, the findings of the special committee shall be considered as conclusive. The special committee may, on this occasion, formulate recommendations which, without having the force of a decision, shall constitute the basis for a review, by the parties concerned, of the question giving rise to the dispute.

ANNEX II C

Special procedures—Scientific research

Article 1

Any dispute between two or more Contracting Parties concerning the application of articles . . . ** of the present Convention, if not settled by negotiation shall, at the request of any of the parties to the dispute, be submitted to a special committee of five members appointed by agreement between the parties and selected from a list of experts on marine scientific problems established by the Intergovernmental Oceanographic Commission.

Article 2

Failing agreement among the parties within a period of three months, the members of the special committee shall, at the request of

* Articles relating to pollution.

** Articles relating to scientific research.

any party to the dispute, be appointed within a further period of three months by the Director-General of the United Nations Educational, Scientific and Cultural Organization, after consultation with the Chairman of the Intergovernmental Oceanographic Commission.

Article 3

Each Contracting Party may designate, for inclusion in the list of experts established by the Intergovernmental Oceanographic Commission, two persons whose competence in the field of marine scientific research is established and generally recognized.

Article 4

The committee shall so organize its own procedure as to ensure that each party has the opportunity to be heard and to present its case. Failing agreement by the parties, it shall also decide how the costs and expenses are to be apportioned between the parties to the dispute.

Article 5

The special committee shall, upon the request of a party to the dispute, have the power to prescribe, if it considers that circumstances so require and after giving the parties to the dispute an opportunity to be heard, such provisional measures as it considers appropriate to be taken to preserve the respective rights of the parties to the dispute or to prevent serious harm to the marine environment, pending its final decision. These measures shall be binding on the parties.

Article 6

The special committee shall give its decision within five months of having been set up. In an emergency, this period may be reduced by agreement between the parties or by a decision of the committee.

Article 7

In reaching its decisions, the special committee shall comply with these articles and with the rules of general international law and any special agreements reached between the parties to the dispute with a view to settling the dispute.

Article 8

The decisions of the special committee shall be adopted by a majority vote and shall be binding on the parties to the dispute.

Article 9

The parties concerned may agree to request the special committee to carry out an investigation and establish the facts giving rise to any dispute concerning the interpretation or the application of the provisions of articles . . . * of the present Convention. In this case, the findings of the special committee shall be considered as conclusive. The special committee may, on this occasion, formulate recommendations which, without having the force of a decision, shall constitute the basis for a review, by the parties concerned, of the question giving rise to the dispute.

ANNEX III

Information and consultation

Article 1

1. The Contracting Parties, wishing to minimize the occurrence of disputes between them, recognize the desirability of making information available to one another, as promptly as possible, regarding the adoption or application of measures (including legislation, regulations, administrative notices and boundary determinations) within the scope of the present Convention.

2. For this purpose, each Contracting Party shall communicate such information to the Secretariat of the United Nations, or any other international organization designated by the Secretary-General of the United Nations, which shall promptly publish such information, as well as any observations, objections and protests communicated by other States in connexion with such information.

Article 2

Each Contracting Party shall respond promptly to a request by any other Contracting Party for consultation with respect to the adoption or application of measures referred to in the preceding article.

DOCUMENT A/CONF.62/WP.9/ADD.1*

Memorandum by the President of the Conference on document A/CONF.62/WP.9

[Original: English]
[31 March 1976]

1. The Conference will meet in plenary session on 5 April 1976 to hold a general debate on the item "Settlement of disputes" which appears as item 21 on the list of subjects and issues. It was the decision of the Conference that this item should be dealt with by each Committee in so far as it was relevant to their respective mandates.

2. The informal single negotiating text presented by the Chairman of the First Committee (A/CONF.62/WP.8/Part I)² provides in article 24, paragraph 1, for the establishment of a tribunal as one of the principal organs of the proposed International Sea-Bed Authority and deals in article 32 with the jurisdiction, powers and functions, and composition of the tribunal and other related matters.

3. This is in conformity with paragraph 15 of General Assembly resolution 2749 (XXV), which contains the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, Beyond the Limits of National Jurisdiction.

4. The chairman of the Second Committee in article 137 of his informal single negotiating text (A/CONF.62/WP.8/Part II)² and the Chairman of the Third Committee, in article 37 of his text (A/CONF.62/WP.8/Part III),² have not made special provision for the settlement of disputes.

5. I deemed it fit, therefore, to produce an informal single negotiating text on this item in order to facilitate the work of the Conference. The introduction to A/CONF.62/WP.9 explains the reason for the presentation of this text, and this was further clarified at the 57th plenary meeting and at the 14th meeting of the General Committee held on 15 March 1976.

6. Although there had not been any real occasion for delegates to indicate their position on this item or to present proposals, the precedent established in regard to the preparation of an informal single negotiating text by each of the chairmen of the Committees was seen by me as calling for an initiative on my part in this matter, especially as the provision of effective dispute settlement procedures is essential for stabilizing and maintaining the compromises necessary for the attainment of agreement on a convention. Dispute settlement procedures will be the pivot upon which the delicate equilibrium of the compromise must be balanced. Otherwise the compromise will disintegrate rapidly and permanently. I should hope that it is the will of all concerned that the prospective convention should be fruitful and perma-

nent. Effective dispute settlement would also be the guarantee that the substance and intention within the legislative language of the convention will be interpreted both consistently and equitably.

7. The informal single negotiating text on settlement of disputes cannot, however, claim to have the same status and character as the other three informal single negotiating texts as there has been no general discussion of the item. To remedy that omission I secured agreement to a general debate on the item being held in the plenary. After the general debate, the plenary will be invited to consider whether or not the President should prepare an informal single negotiating text on dispute settlement in the same manner and on the same conditions and subject to the same understanding in regard to the status and character of the text as those relating to the three Committees.

8. The informal single negotiating text on settlement of disputes consists of a chapter containing 18 articles and 7 annexes, namely:

Annex I A: Conciliation

Annex I B: Arbitration

Annex I C: Statute of the Law of the Sea tribunal

Annex II A: Special procedure—fisheries

Annex II B: Special procedure—pollution

Annex II C: Special procedure—scientific research

Annex III: Information and consultation.

9. The detailed elaboration of various procedures rather than the imposition of general obligations which would leave wide open the manner or mode of procedure to be adopted would, it was felt, lead to the easier and better evaluation of the efficacy of each of the procedures suggested. There is little doubt that in the assessment of any procedure, the details of the procedure would significantly affect the acceptability of the procedure itself. It is with this in mind that many of the details of procedure have been spelt out.

GENERAL OBLIGATION TO SETTLE DISPUTES BY PEACEFUL MEANS

10. The first four articles which incorporate the fundamental principle of modern international law as contained in Articles 2 and 33 of the Charter of the United Nations and in paragraph 15 of the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, Beyond the Limits of National Jurisdiction should, I hope, have very wide support. While imposing the general obligation to exchange views and to settle disputes by peaceful means, these articles give complete freedom to the parties to

* Incorporating documents A/CONF.62/WP.9/Add.1/Corr.1 and 2 of 2 April 1976.

² See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. IV (United Nations publication, Sales No. E.75.V.10), document A/CONF.62/WP.8.