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32nd meeting of the Third Committee

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"A State, whenever a vessel is voluntarily within one of its ports, other internal waters or off-shore terminals, shall, as far as practicable, comply with requests from any State for investigation of violations of international rules and standards referred to in paragraph 1, believed to have occurred in, damaged or threatened the internal waters, territorial sea or economic zone of the requesting State, and likewise shall, as far as practicable, comply with requests from the flag State for investigation of such violations, irrespective of where the violations occurred."

75. The negotiating group had been unable to resolve the various issues related to paragraph 4 of article 28. It had decided to reconsider paragraphs 2 and 4 of that article when it had the opportunity to study article 30.

76. In conclusion, he expressed satisfaction that the Committee had been able, on the basis of the revised single negotiating text, to narrow differences and eliminate certain

ambiguities and provisions which had given rise to controversy, but he noted that important issues remained to be settled. In addition to the question of harmonizing parts II and III of the single text with respect to coastal State competence in the territorial sea, it would be necessary, *inter alia*, between the current session and the forthcoming one, to determine the civil or criminal nature of proceedings to be taken by the port State, the universal character of port State jurisdiction and the degree of acceptance needed for the establishment and application of international rules and standards. He was convinced that continued co-operation and concentrated efforts by the Committee to improve the revised single negotiating text at the next session would place the common goal within reach.

The meeting rose at 6.25 p.m.

32nd meeting

Wednesday, 15 September 1976, at 10.55 a.m.

Chairman: Mr. A. YANKOV (Bulgaria).

Report by the Chairman on the Committee's work (continued)

Protection and preservation of the marine environment (continued)

1. The CHAIRMAN recalled that, in accordance with the decision taken on the previous day, the current meeting would be devoted to hearing comments and suggestions regarding the oral report he had made at the preceding meeting on the protection of the marine environment. In his report, he had attempted to provide a factual summary of what had been achieved to date at the current session, stressing points on which there was agreement and the issues which still presented problems. Obviously, there might have been some inadvertent omissions in his presentation and there might be some points requiring clarification. He left it to the members of the Committee to assess what had been done so far. The Committee's chief concern at the current stage should be to work with a view to the future, bearing in mind what could be achieved at the next session of the Conference.

2. Mr. TIKHONOV (Union of Soviet Socialist Republics) said that the Chairman's oral report clearly and faithfully reflected the discussions which had taken place in the Committee.

3. The session which was about to end showed that most delegations viewed part III of the revised single negotiating text (see A/CONF.62/WP.8/Rev.1)¹ prepared by the Chairman as a compromise text which should be taken as a package. One of the positive aspects of the preceding session had been that virtually all delegations had expressed willingness to participate in negotiations aimed at finding generally acceptable solutions. That had made it possible to resolve differences and secure wider support for the revised single negotiating text. Of course, it had not been possible to reach agreement on all the points in that text either in the Committee or in the negotiating groups; a case in point had been

article 21, paragraph 3. Nevertheless, there was reason to hope that on continuing its work, the Committee would manage to settle outstanding issues and find solutions through negotiations.

4. However, his delegation would not wish anyone to conclude that the provisions contained in the revised single negotiating text pertaining to vessel-source pollution of the marine environment reflected the national position of the Soviet Union. In order to accept some points in the negotiating text, the Soviet Union had had to depart considerably from its position of principle regarding the jurisdiction of coastal States and port States.

5. It had been proposed that the powers of the coastal State should be broadened when it had been decided that in certain areas of the economic zone national laws and standards designed to stop vessel-source pollution of the marine environment could be applied. In the view of his delegation, such provisions should be included in future only if safeguards were also incorporated ensuring that there would be no abuse of the extensive rights granted to port States and coastal States. In that connexion, his delegation attached great importance to section 8 of part III of the revised single negotiating text pertaining to safeguards. However, the introduction into the text of exemptions or similar provisions which weakened the section on safeguards would make not only part III of the revised single negotiating text but the text in its entirety unacceptable to his delegation.

6. With regard to future work, his delegation felt that the most sensible course would be to conclude, at the next session, consideration of all of the provisions of the revised single negotiating text pertaining to vessel-source pollution of the marine environment. In that connexion, articles 30 and 38 should be kept very much in mind and, if time permitted, the amendments to other articles in that part of the text should be studied. In those future deliberations, it would be appropriate to continue to apply the methods followed so far, dealing with the articles and amendments in the Committee and in the negotiating groups, and using all other possible methods of consultation and discussion.

¹See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. V (United Nations publication, Sales No. E.76.V.8).

7. In his oral report, the Chairman had pointed out that one of the most difficult outstanding problems was to determine whether the provisions of the single text dealing with court proceedings should also apply in the case of questions relating to civil liability. His delegation did not view that problem as very serious. The articles of the single negotiating text referred to the rights and duties of States with respect to penalties to be imposed on physical persons for violations committed. The order in which the issues relating to civil liability should be decided was indicated in article 38, paragraph 3, and in article 44.

8. In his oral report, the Chairman had also pointed out that opinions differed about the jurisdiction of port States, a question which posed a number of problems for his delegation. However, his delegation realized that other delegations had difficulties with other parts of the proposed compromise text, and that was precisely why it had been agreed that a "package approach" should be adopted; thus concessions had been made by some delegations on some points and by other delegations on other points. A number of delegations felt that some parts of the single negotiating text presented as a compromise solution did not accord with the positions of their respective countries but that should not mean undermining the principle of reaching decisions by a package approach. He had to acknowledge that the question of the jurisdiction of port States was part of the package solution.

9. Earlier sessions had shown that most of the participants in the deliberations of the Committee had a clear understanding of the positions of other delegations and a sincere interest in achieving mutually acceptable results so that final success could be achieved.

10. Mr. LEITZELL (United States of America) said he had been pleased by the Chairman's oral report regarding the work of the current session and, in particular, his remarks regarding the sections dealing with pollution of the marine environment. As had already been stated at the beginning of the session, the United States was prepared to work on the basis of the revised single negotiating text, although, as it had already said, that text contained a number of points which did not coincide with its national position on the matter. His delegation, however, recognized and understood the positions of other delegations, and, in general, considered the single text as a whole to be acceptable.

11. He was pleased that the Chairman had highlighted the problem of standard-setting in the territorial sea and that he had pointed out that the issue required further study.

12. On the whole, the revised single negotiating text was obviously very close to the mark, as could be seen from the deliberations held at the current session. A great many amendments had been submitted, although some of them were only drafting amendments, and it was encouraging to find that really substantive amendments had received little support, which meant that most delegations realized that the introduction of substantive amendments to the negotiating text would make it hard to achieve a package solution and would jeopardize the efforts made so far.

13. In considering the revised single negotiating text, it had been necessary to adopt an article-by-article approach. Unfortunately, some points in the text had been debated while others had barely been considered. As the Chairman had stated in his oral report, further work would be needed on the issue of the competence of coastal States in the articles pertaining to safeguards, and particularly article 38, relating to the suspension of criminal proceedings in the event that the flag State instituted proceedings.

14. He was concerned about some of the questions raised by the Chairman in the final part of his oral report, concerning the enforcement powers of port States. He understood that, as the representative of the Soviet Union had mentioned, the concept of enforcement by the port State did not form part of

the national policy of a large number of delegations. However, the statement by the representative of the Soviet Union indicated that the concept of enforcement by the port State was generally acceptable to the Soviet delegation and other delegations. In the view of the United States delegation, the part of the package solution dealing with the jurisdiction of the port State was extremely important and its main element was the universal nature of such jurisdiction, mentioned by the Chairman in his oral report. If the package solution, in other words the text in its entirety, was to be acceptable to the United States, the universal nature of the port State's jurisdiction as stipulated in article 28, paragraph 1, should be maintained.

15. He was concerned about the content of article 38 concerning flag State pre-emption since, as a matter of national policy, the United States was opposed to such a principle and consequently to that article. However, if the rest of the package solution was maintained, the United States would in principle be able to deal with such an article.

16. He welcomed the position of the Soviet delegation regarding the connexion between the articles relating to the jurisdiction of coastal States and port States and the article relating to flag State pre-emption. The Soviet delegation could only agree to enforcement by port States and coastal States if there was an article which provided for flag State pre-emption, while the United States could only agree to an article on flag State pre-emption if port States were given enforcement powers, and obviously other delegations might only be able to agree to the article on flag State pre-emption if there were appropriate provisions concerning the jurisdiction of coastal States.

17. His delegation continued to support the "package approach": future negotiations on the question of the territorial sea and other matters could only improve matters as a whole and the Committee could end on a note of optimism regarding the next session of the Conference.

18. Mr. BUHL (Denmark) thanked the Chairman for his oral report and said that the most significant result of the present session was the existence of the single revised negotiating text, which represented a viable solution to a number of complex problems. There were still a number of pending issues, but in the time available before the next session delegations would no doubt work in such a way as to create conditions conducive to future agreement.

19. Referring to the remarks made by the Chairman in his oral report concerning future work on article 21, paragraph 3, on standard setting, he agreed that that paragraph should be read in conjunction with article 20, paragraph 2, of part II of the revised single negotiating text (*ibid.*) now under consideration by the Second Committee. According to the statement made by the Chairman of the Second Committee at the 27th meeting of the General Committee, it had been decided not to continue working on subjects which were of limited interest or which had not been discussed in its working groups, of the Second Committee and delegations with a particular interest in those subjects had been requested to meet informally between sessions to deal with them. That decision was very important to his delegation, which felt that all delegations interested in particular aspects of the revised single negotiating text should be given time to deal with them. His delegation was especially concerned with three subjects, namely under-keel clearance, traffic separation schemes and mandatory pilotage.

20. Mr. REFFOUH (Morocco) said that his country's position had already been stated on various occasions and had not changed. At the previous session, the delegations of Morocco and Egypt had submitted an amendment designed to broaden the legal basis of article 41. His delegation had always been concerned with the matter of State liability for pollution damage. There had not been time to discuss article 44 at the

present session and, in the light of the revision of the single negotiating text and the support encountered among other delegations, the delegations of Morocco and Egypt were submitting an amendment to article 44 in the hope that it would be discussed at the following session.

21. Article 44 represented an advance on article 41 in its over-all formulation of the question, which contained drafting and stylistic improvements and a slight change of substance. In his view, it represented an effort to meet the concerns expressed by his own and other delegations regarding the liability of "polluting" States and its corollary, compensation for the damage caused. However, article 44 was still inadequate as regards principles and means of application. Liability should in fact be objective, in other words all damage to the marine environment and to property and persons in that environment should call for compensation, and the procedures and conditions for determining liability needed to be simplified. Although, where national application of the basic principle of compensation for damage was concerned, article 44 was in keeping with international law, when it came to applying that principle at international level, the ideas expressed in paragraph 3 of that article might have no practical effect if they were not translated into effective machinery. In that connexion, it should be recalled that an international fund for compensation for oil pollution damage had been set up under the International Convention on Civil Liability for Oil Pollution Damage adopted at Brussels in 1969. The purpose of the fund was to ensure rapid procedures for compensation on the basis of two fundamental principles: adequate compensation of victims applying the principle of objective liability and exoneration, in principle, of ship-owners from the additional financial liabilities imposed by the Convention.

22. Because pollution damage was usually so costly, it must be viewed lucidly and realistically, especially as normal insurance companies refused to insure such damage beyond certain limits. Straits used for international navigation were exposed to the "black menace" because of their geographical configuration and the large volume of maritime traffic, and they should therefore be treated with caution and care by users. In that connexion, the delegations of Morocco and Egypt supported the proposal by some delegations that compulsory insurance should be provided for vessels flying a national flag. With the foregoing clarifications, those delegations thought that, for all types of pollution, it was vital to provide for the establishment of a guarantee fund which would offset the ineffectiveness of traditional judicial remedies and the narrow scope of the machinery set up by the 1969 Convention. Acceptance of that principle would also help to solve other problems that were still pending.

23. In conclusion, his delegation thought that the amendment which it was submitting jointly with the Egyptian delegation met the concerns expressed by a large number and variety of delegations ever since the establishment of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction.

24. Mr. KATEKA (United Republic of Tanzania) said that, unlike other delegations, his delegation was not entirely satisfied with the "package approach". The Chairman had described the single revised negotiating text as a flexible and balanced document. However, some delegations had made statements which gave a wrong impression of the majorities and minorities which supported the proposals and amendments submitted in the Committee. The impression was misleading because many delegations had not stated their position on those proposals and silence could not be construed as consent.

25. His country's dissatisfaction with the so-called "package deal" was due to the lack of balance between the powers of a coastal State and those of a flag State. The link between article 21, paragraph 3, of part III of the negotiating text and

article 20, paragraph 2, of part II had already been noted. His country had suggested in the negotiations that article 20, paragraph 2, was prejudicial to the rights of a coastal State in the territorial sea and should therefore be deleted. Article 21, on the other hand, contained an unnecessary reference to innocent passage, a matter which had been assigned to the Second Committee. It should be borne in mind that the articles drawn up in the small negotiating group, and in particular article 21, had not yet been approved, and there was no agreement on paragraphs 3 and 5 of that article.

26. He agreed with the representative of Kenya that, in so far as the competent international organization was concerned, that organization should not be the Inter-Governmental Maritime Consultative Organization (IMCO) alone. He likewise objected to the arrangement whereby provisions drawn up after consultations had been held on a matter should be submitted to that organization for approval.

27. The lack of balance between the rights of a coastal State and those of a flag State were especially noticeable with regard to the economic zone. His delegation was still dissatisfied with the revised single text, and particularly with article 30, under which a coastal State was authorized to take action in the case of a flagrant violation. The expression "flagrant violation" was not defined, and the definition suggested by the French delegation was likewise unsatisfactory because it was ambiguous and apt to give rise to disputes. What was more, the provision in question seemed to grant too much authority to the flag State. In addition, he pointed out that the desire for amicable solutions could not be realized if statements giving false impressions continued to be made, and he recalled once again that the revised single text had not yet been accepted by the majority.

28. Mr. DORON (Israel) said that the discussions of the Committee with regard to the protection and preservation of the marine environment had been useful and that progress had been achieved on some of the articles discussed. The Committee had focused its work mainly on a small number of points designated as "key issues", but there were still other matters in chapter I which had received very scant mention. Many of the proposals put forward had not been discussed, including those made by his delegation regarding articles 8, 9, 10 and 11 of section 2, article 14 of section 4, articles 17 and 20 of section 6 and a new article 22 *bis* for section 6. He hoped that the necessary time would be found at the next session to deal with the articles that had not yet been considered and that a spirit of conciliation would be forthcoming so that positive results could be achieved.

29. Mr. MAWHINNEY (Canada) said that the revised single negotiating text went some distance towards meeting the objective of a proper balance between the enforcement rights and duties which coastal States, maritime States and port States should be in a position to exercise in order to ensure a comprehensive, credible and effective régime for the prevention, reduction and control of marine pollution from vessels. A number of amendments on the more contentious issues relating to port State and coastal State enforcement powers (articles 28, 30 and 38) remained outstanding, but his delegation was optimistic that an improved revised single negotiating text could be formulated. In the view of his delegation, the issue of coastal State rights and duties with respect to the territorial sea and economic zone was of crucial importance for the successful outcome of negotiations on the text of part III and, in the longer term, for the success of the convention. At the beginning of the current session, one of the three key issues had been identified as the power of the coastal State to establish laws and regulations regarding marine pollution from vessels within its territorial sea.

30. His delegation's concurrence with that assessment derived from a deep concern that powers acknowledged under existing international customary and treaty law to be part of the prerogative of the coastal State risked being undermined by the restric-

tive wording of the operative provisions of part II of the revised single negotiating text. It was evident that article 21, paragraph 3, of part III of the negotiating text and article 20, paragraph 2, of part II were interrelated, for the powers conferred on the coastal State under article 21 of part III might possibly be denied when read in conjunction with the language of article 20 of part II.

31. Article 20 would have the effect of radically altering in favour of maritime States the long-established balance between coastal State sovereignty and the right of innocent passage. The article imposed a prohibition on the enactment by the coastal State of laws relating to design, construction, manning and equipment even if only to give effect to existing international rules and standards. That prohibition extended to other "matters" regulated by generally accepted international rules, and the expression "matters" was left undefined and hence might encompass a wide range of subjects. Coastal States would be completely deprived of the ability to respond to possible threats to the marine environment not covered by international rules. Furthermore, as had been set out so well by the Malaysian representative in the Second Committee, the difficulty of agreeing on what were "international rules" and when they were "generally accepted" compounded the problem of applying that article.

32. It had been suggested that States which shared the concerns of Canada were seeking absolute sovereignty for the coastal State within the territorial sea to set marine pollution standards. That was completely erroneous, for Canada had always recognized the duty of a coastal State to respect the right of innocent passage for foreign vessels in the territorial sea. In listening to the debate on that issue, it had been his impression that the objective of some States had been to create a new order of absolute sovereignty for flag States within the territorial sea.

33. The existing régime of the territorial sea had been set up with the aim of preserving and promoting the interests of both coastal and maritime States, which, working together in international forums, had developed international rules governing vessel source pollution. Canada had endeavoured to incorporate international norms in its national laws, but it feared that the restrictive language of article 20, paragraph 2, would deny a coastal State's ability to act to protect the marine environment and that, as a result, an important part of the incentive for maritime and coastal States to collaborate in formulating effective international rules would be lost.

34. An increasing number of delegations were seriously concerned about the open-ended nature of that paragraph and the resulting constraints which might be imposed on a coastal State's ability to protect its marine environment and other areas. Given the close link between article 20, paragraph 2, of part II of the negotiating text and article 21, paragraph 3, of part III, the issue was clearly one which required the closest collaboration between the Second and Third Committees to harmonize the provisions of the two paragraphs.

35. Perhaps one of the most important questions that must be considered was whether article 20, paragraph 2, of part II, dealing with the territorial sea, and article 21, paragraph 4, of part III, dealing with the economic zone, differed in substance, as in fact they should in so far as the legal régime of the territorial sea was based on the principle of sovereignty, whereas that of the economic zone derived from coastal State jurisdiction. It was his delegation's opinion that the effect of article 20, paragraph 2, was to leave the coastal State with equivalent or perhaps fewer powers with respect to marine pollution control than those conferred on it with respect to the economic zone. Furthermore, regardless of the differences of opinion as to how article 20, paragraph 2, might be improved in order to ensure reasonable discretion for the coastal State to act in the protection of its marine environment, there appeared to be at least common ground on the need for some amendment to curb the restrictive effect of the present text. In the meantime, it was imperative to avoid any amendments to article 21, paragraph 3, of part III

which could further prejudice the basic issue of coastal State powers to set standards in the territorial sea and, more specifically, to avoid any broadening of the cross-reference in that article to include all of section 3 of part II.

36. Mr. MBOTE (Kenya) said that his delegation wished to put on record its opinion that some of the texts drafted in the course of the current session, as, for example, article 28, paragraph 3, and article 30, paragraph 1, of part III of the negotiating text, did not represent agreed solutions, as they referred to matters on which no agreement had as yet been reached. As to the relationship between article 20, paragraph 2, of part II and article 21, paragraph 3, of part III, his delegation fully accepted the concept of the sovereignty of a coastal State over the territorial sea. It felt, however, that a solution must be found for the practical problems that would result if the coastal States, in the exercise of their sovereign rights, required that foreign vessels should comply with their laws and regulations concerning the construction and manning of vessels. His country therefore considered that a somewhat more flexible attitude must perhaps be adopted with regard to the principle of sovereignty in order to facilitate navigation. There would consequently be a need to comply as far as possible with the internationally established norms, for example, those of IMCO, in relation to the design, construction, manning and equipment of foreign vessels. On the other hand, the reference in article 20, paragraph 2, to other matters was unacceptable and should be deleted.

37. His delegation, in agreement with the delegation of the United Republic of Tanzania, felt that the new wording of article 21, paragraph 5, raised problems, particularly with regard to the role to be played by IMCO. Since IMCO had very precise terms of reference, it was to be wondered why, for example, a coastal State would be required to consult IMCO regarding matters which were outside its terms of reference and which might even be included in those of other specialized agencies, such as the Food and Agriculture Organization of the United Nations in the case of fisheries.

38. Mr. MUÑOZ-SECA (Spain) said that, without prejudice to reservations which his delegation might eventually make regarding specific articles, he would like it to be made a matter of record that in the opinion of the Spanish delegation article 30 represented a basic element in the "package" solution.

39. Mr. KWON (Republic of Korea) reiterated what his delegation had said during the informal meetings of the Committee and at the previous session regarding the special consideration that should be given to the vessels of developing States with regard to rules and regulations for the prevention, reduction and control of pollution of the marine environment. Both the developed countries and the developing countries should make efforts to avoid any negative effects which tended to discourage the development of the shipping industry of developing States.

40. He thought that paragraph 3 of article 21 of part III of the negotiating text should be re-examined so as to ensure that coastal States were not allowed to regulate the design, construction, manning and equipment of foreign vessels. For that purpose a joint meeting of the Second and Third Committees might be desirable. As for paragraph 5 of the same article his delegation had no objection to the establishment of a special area provided that it was subject to mandatory examination by a competent international organization such as IMCO. It therefore approved of the text prepared by the small negotiating group.

41. In the oral report he had made the previous day, the Chairman had said that the small negotiating group had also revised paragraph 2 of article 27. However his delegation had reservations concerning that paragraph because it was financially and technologically difficult for the vessels of developing States fully to comply with the requirements of international rules in respect of design, construction, equipment and manning. Since that revised paragraph was not sufficient to protect the shipping

interests of his Government, his delegation preferred the Greek amendment.

42. With regard to article 28, the jurisdiction of the port State should be respected with some restrictions. The amendments made by the small negotiating group would be examined positively by his delegation.

43. It was regrettable that, owing to lack of time, the Committee had not been able to discuss section 8, dealing with safeguards. Consequently his delegation would defer its comments on those articles until the next session.

44. He shared, with some exceptions, the Chairman's view that the revised single negotiating text on pollution matters was a balanced text. It could serve as a basis for further negotiations, and his delegation undertook fully to co-operate with others in order to achieve fruitful and constructive results.

45. Mr. LO Yu-ju (China) said that at the current session many delegations had submitted important amendments to the articles on pollution by vessels, which met with the approval of his delegation. Those included the amendments submitted by Ecuador and Tunisia to article 21, paragraphs 4 and 5, the amendments submitted by Pakistan to article 28, the Canadian proposal for the deletion of the phrase "without prejudice to the right of innocent passage" in article 30, paragraph 2, and the deletion of article 38 on the jurisdiction of the flag State, proposed by Canada, Spain and other countries.

46. His delegation felt that those amendments and others submitted by developing countries would be useful at the next session. He agreed with the representative of the United Republic of Tanzania that, for purposes of negotiation, the revised single text was not a balanced text. Only by proceeding from the principle of respect for the sovereignty and jurisdiction of coastal States could a valid solution be reached. Coastal States had the right to establish and enforce their national laws, regulations and standards to prevent pollution by vessels in the area under their national jurisdiction and in the economic zone, and also the right to deal directly with vessels responsible for causing pollution.

47. Mr. KAMARUDDIN (Malaysia) said that his country attached great importance to the preservation of the marine environment and particularly to the problem of pollution by vessels, and it had participated in all the negotiating and working groups in a spirit of conciliation. As the Chairman had stated in his oral report, there were still some problems that there had not been time to consider, and he trusted that negotiations would begin as soon as possible at the next session.

48. Mr. YUSUF (Somalia) drew attention to the connexion between article 21, paragraph 3, of part III of the negotiating text and article 20, paragraph 2, of part II. Somalia considered that coastal States should exercise sovereignty over the territorial sea and that the rights deriving from that sovereignty should not be diminished. It therefore could not accept the drafting of article 20, paragraph 2, of part II and, in particular, the second part of the text, whose wording was ambiguous and could give rise to controversy. In its opinion that part should be deleted. Coastal States should also have the right to legislate on the design, construction, manning and equipment of vessels, in accordance with international standards. His delegation could not agree with the text proposed for article 21, paragraph 5, of part III which, according to the Chairman's report, had been accepted by various delegations. He pointed out that each special area had its own particular features, which made it difficult for coastal States to apply standard international rules. It would be advisable to delete the provision on the application of such international rules and proclaim the right of the coastal States to enact laws on the subject after holding consultations with other States and with international organizations.

49. With regard to the competent international organization, he agreed with representatives of Kenya and the United

Republic of Tanzania that there might be several competent international organizations and that IMCO should not be given a monopoly. As for article 30, Somalia supported all the amendments submitted by Spain, and particularly the amendment to paragraph 1. It also shared the concern expressed by various delegations regarding flag State pre-emption in article 38 and felt that the "package approach" would not be viable unless the rights of coastal States were recognized in article 30. Lastly, it would like the reference to the right of innocent passage in paragraph 2 of that article to be deleted.

50. Mr. RAO (India), referring to the text proposed for article 21, paragraph 5, dealing with "special areas", said that his delegation also felt that the present wording presented problems. In his delegation's view, if special circumstances so required, the coastal State should have the competence to establish special areas within its exclusive economic zone in order to protect the resources of the zone, ensure the safety of the installations necessary to exploit those resources and preserve the marine environment. Moreover, the establishment of such areas should not be subject to the approval of international organizations such as IMCO. At most the coastal State should notify the competent international organization before establishing a special area and take into account the recommendations made by that organization. Accordingly, the delegation of India could not agree to the text prepared by the negotiating group. The requirements relating to consultations with other countries concerned, through the competent international organization, to implementation of international rules and standards and to approval of the competent international organization were excessive. Consultations should be directory and not mandatory. Moreover, the establishment of special areas should not be subject to approval or to no objection by an international organization such as IMCO.

51. Mr. APPLETON (Trinidad and Tobago) said that his delegation was concerned about the current wording of article 20, paragraph 2, of part II of the negotiating text, and of article 21, paragraph 3, of part III, since both texts violated the sovereignty of the coastal State over its territorial waters. There were also objections to article 38 of part III since it favoured the flag State by providing that the latter could institute and suspend criminal proceedings, whereas no similar provisions were made for the coastal State.

52. Mr. IMAM (Egypt) said that his delegation could not agree to the current wording of article 20, paragraph 2, of part II of the negotiating text, and felt that the Committee should have an opportunity to reconsider the text and reach a solution on the subject. As for the problem posed by the connexion between that paragraph and article 21, paragraph 3, of part III, his delegation considered that, as a general solution, there should be no reference in the latter paragraph to any particular article, except for the provisions of the convention as a whole.

53. As for article 21, paragraph 5, of part III, its wording needed to be improved. It should be made clear, for instance, what was meant by the term "countries concerned". Similarly, in article 28 of part III it would be necessary to clarify the meaning of the phrase "cause proceedings to be taken" and specify whether those proceedings would be criminal or civil. A similar problem arose with regard to article 27, since the international rules and standards referred to in that article should also be described more precisely.

54. The CHAIRMAN, referring to the various objections that had been raised during the meeting with regard to the nature of the articles drafted as a result of the negotiations held at the current session, repeated that the texts in question were not agreed texts but were simply a basis for future negotiations.

The meeting rose at 12.55 p.m.