THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA

OFFICIAL RECORDS

Volume XI

SUMMARY RECORDS OF MEETINGS

PLENARY MEETINGS: 110th TO 116th MEETINGS
GENERAL COMMITTEE: 45th AND 46th MEETINGS
FIRST COMMITTEE: 45th MEETING
SECOND COMMITTEE: 57th AND 58th MEETINGS
THIRD COMMITTEE: 40th MEETING

DOCUMENTS

Eighth Session: Geneva, 19 March-27 April 1979

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INTRODUCTORY NOTE

The Official Records of the Third United Nations Conference on the Law of the Sea comprise the following 11 volumes:

First and second sessions: volumes I-III.

Third session: volume IV.

Fourth session: volume V.

Fifth session: volume VI.

Sixth session: volumes VII and VIII.

Seventh session: volumes IX and X.

Eighth session: volume XI.

The agenda of the Conference and the allocation of the items included in the agenda appear in paragraph 40 of document A/CONF.62/L.8/Rev.1 (see vol. III). The rules of procedure of the Conference have been issued as a United Nations publication (Sales No. E.76.I.4).

For the list of delegations participating in the eighth session, see documents A/CONF.62/INF.10 and Corr.1.

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol in the text indicates a reference to a United Nations document. The Conference documents bear the symbol A/CONF.62/. . .

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PLENARY MEETINGS

110th meeting

Monday, 19 March 1979, at 11.20 a.m.

Chairman: Mr. H. S. AMERASINGHE.

Opening of the eighth session

1. The PRESIDENT declared open the eighth session of the

Minute of silence for prayer or meditation

On the proposal of the President, representatives observed a minute of silence for prayer or meditation.

Adoption of the agenda

The provisional agenda (A/CONF.62/70) was adopted.

Organization of work

2. The PRESIDENT reminded representatives that, at its 108th meeting, the Conference had adopted the recommendation by the General Committee that the negotiating groups established by the Conference at its seventh session should resume their work at the very outset of the eighth session, and that special emphasis should be given to matters before the First Committee during the first three weeks of the eighth session, without excluding issues before other negotiating groups (A/CONF.62/69,[1] para. 5). On 2 March 1979 he had communicated to delegations a tentative time-table for the work of the Conference during the first three weeks of the eighth session. As a result of discussions he had held with delegations and with the Chairmen of the negotiating groups subsequent to the preparation of the draft time-table, and as a result of suggestions that Negotiating Group 2 should not meet before 21 March and that Negotiating Group 6 should not meet before the second week of the session, the draft time-table had been revised.

3. After reading out the schedule of work now proposed for adoption by the Conference, he said that arrangements had been made for a meeting for Negotiating Group 5 because, although the Group had concluded its mandate, issues relating to articles 296 and 297 remained outstanding.

4. Arrangements could be made for the Group of 77 and other groups to hold night meetings and meetings on Saturdays, if necessary. Requests for such meetings should be submitted to the Secretariat as early as possible.

5. Mr. KOZYREV (Union of Soviet Socialist Republics), referring to the President's comments on the work of Negotiating Group 5, said that his delegation was not under the impression that the Group had concluded its work.

6. The PRESIDENT drew attention to the statement made by the Chairman of Negotiating Group 5 at the Conference's 108th plenary meeting.[2] That statement had not been challenged. Nevertheless, a meeting of the Group had been arranged for the afternoon of Thursday, 22 March.

7. Mr. NJENGA (Kenya) requested that Negotiating Group

8. The PRESIDENT observed that the Chairman of Negotiating Group 2 had no objection to that suggestion and that the schedule would therefore be amended accordingly.

9. Mr. YOLGA (Turkey) observed that the Conference's work was still regulated by the decisions taken by the Conference at its 90th meeting on the report of the General Committee (A/CONF.62/62).[1] He asked why no meetings had been arranged to discuss the important questions referred to in recommendation 6 of document A/CONF.62/62.

10. The PRESIDENT said that delegations would be informed of arrangements for meetings on those questions as soon as the Chairman of the Second Committee had completed his review of the situation.

11. Mr. ARIAS SCHREIBER (Peru) asked when the General Committee would meet.

12. The PRESIDENT said that he hoped to arrange for a meeting of the General Committee during the fourth week of the Conference.

13. Mr. ROSENNE (Israel) said that it might be difficult for his delegation to attend the meetings of Negotiating Group 7 and the linguistic groups of the Drafting Committee which were scheduled for the afternoon of Wednesday, 28 March.

14. The PRESIDENT suggested that it might be possible to re-arrange the schedule in consultation with the Chairman of Negotiating Group 7 and the Chairman of the Drafting Committee.

15. If there were no objection, he would take it that the Conference approved the schedule of work as amended.

The schedule of work was approved.

16. Mr. CARÍAS (Honduras), speaking as Chairman of the Group of 77, said that, in joining in the approval of the schedule of work, the Group of 77 had provided proof of its readiness to adopt procedures likely to produce, in a short time, the constructive results expected of the Conference. Progress had been made in the search for generally accepted formulas and there were broad possibilities of attaining the objectives of the Conference in various fields of the law of the sea. Nevertheless, the situation as regards the international régime and machinery for the exploration and exploitation of the sea-bed and ocean floor gave cause for concern; the Group of 77 was compelled to note once again, as it had done at the 109th meeting, on 15 September 1978,[2] the existence of proposed national measures and draft legislation which, although presented as transitional or provisional, were contrary to earlier positions adopted by the very States in which they were being proposed, contrary to undertakings entered into as participants in the Conference and in violation of international law. Universal acceptance of the principle that exploration of the area of the sea-bed and ocean floor beyond the limits of national jurisdiction and exploitation of the resources thereof

[1] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. X (United Nations publication, Sales No. E.79.V.4).

[2] *Ibid.* vol. IX (United Nations publication, Sales No. E.79.V.3).

would be carried out for the benefit of mankind as a whole, as its common heritage, were embodied in the Declaration of Principles which had been adopted without dissent in General Assembly resolution 2749 (XXV). That Declaration, arrived at as a result of political agreement, was widely regarded as the expression of existing international law with respect to the régime of the sea-bed and ocean floor.

17. Universal acceptance of the principle that the area should be explored and its resources exploited for the benefit of all mankind, with particular consideration for the interests and needs of developing countries, implied that there should be an international régime with appropriate international machinery. Exploration and exploitation of the sea-bed and ocean floor had never been part of the freedom of the high seas, nor could such exploration and exploitation, aside from a generally accepted international régime, have their basis in any such freedom. There were no agreements, customs, legislation or practices among States to that effect. In that connexion, paragraphs 3 and 4 of resolution 2749 (XXV) should be particularly borne in mind.

18. Any alteration in the normal course of the establishment of the international régime would be unacceptable to the international community, as was evident from the statements made recently by many Foreign Ministers at the thirty-third session of the United Nations General Assembly. The Governments of the States members of the Organization of African Unity, at their meeting at Nairobi on 3 and 4 March 1979, had stated that African States firmly endorsed the declaration of the Group of 77 at the Conference concerning the intention of certain industrialized States to resort to national legislation in order to carry out activities in the area illegally (see A/CONF.62/72). They deplored such unilateral measures which undermined the legal bases of the common heritage and jeopardized the current negotiations. The African States had called upon all States to refrain from taking any unilateral measures relating to the sea-bed area and to demonstrate good faith in the delicate negotiations at the Conference.

19. It was important to point out that, apart from the serious consequences that unilateral actions would have for international relations, reliance on national legislation would not give companies or entities involved in exploration operations any security or rights recognized by the international community with respect to the investments which that very legislation was alleged to be trying to protect and encourage. Unilateral legislation, parallel laws, reciprocal understandings and market-sharing agreements could not take the place of a generally accepted international régime. They would create a state of disorder which would be prejudicial to any normal development of operations that were initiated. The international illegality of such operations would give rise to a complicated series of controversies. In the circumstances, it was conceivable that any interested party harmed by the activities of national companies covered by a measure of unilateral legislation might bring an action against such companies in any jurisdiction where it had assets or adopt other appropriate measures. It was possible also that countries producing minerals on land would incorporate in their contracts with foreign investors clauses to oblige them not to participate directly or indirectly in the exploitation of the sea-bed in the absence of an international régime, under penalty of revision of such contracts.

20. The Group of 77 would not agree to negotiate under unjustified pressure. It would not agree to recognize *de facto* situations or so-called acquired rights if one or more national laws on the exploration and exploitation of the sea-bed and ocean floor were adopted before the convention was concluded. Statements by various representatives of industrialized countries to the effect that such proposals for unilateral legislation on the sea-bed did not affect the Conference's deliberations were refuted by facts and by the situation of uncertainty that had been created. It was the duty of the Group of 77 to draw attention to the grave danger that unilateral legislation would present not only for the future of the Conference but also for other multilateral negotiations between developed and developing countries. The Group of 77 proposed that negotiations in the Conference should be intensified and completed in 1979 with a view to signature of the convention at Caracas in the spring of 1980. The Group would keep under constant examination the state of negotiations at the eighth session and at the proper time it would express its views on the way to pursue the Conference's deliberations. It would give particular consideration to the possibility of using mechanisms permitting a comprehensive examination of issues submitted to different negotiating groups, depending on the progress made in the group concerned. The Group also considered that the rules of procedure contained clear rules on the adoption of decisions. It would therefore keep under review the best way of applying the rules for the adoption of the various chapters of the convention and for its signature at Caracas.

21. Mr. RICHARDSON (United States of America) expressed his delegation's hopes that the Conference would make significant progress towards the common goal at its current session.

22. He did not wish to precipitate a debate on the issue of national sea-bed mining legislation or to repeat his delegation's previous statements on the subject; but there were a few key points which merited repetition. In the first place, it was not anticipated that deep sea-bed mining on a commericial scale would be feasible before 1985 at the earliest. That was far beyond any of the target dates set for the completion of the Conference. The legislation being contemplated by his Government would not permit any licences to be granted before 1 July 1982. The three-year difference in dates was designed to give the consortia concerned enough time to make their definite plans.

23. When technology was discussed in international forums, it was often insufficiently emphasized that technology could be applied only by people with a certain knowledge. The lead times involved in the new technology for deep-sea mining were very long: there were a number of large capital items to be acquired and, in the absence of a legal framework, deferment of operations would inevitably result in a dispersal of the teams of people with the requisite knowledge. It should be remembered, in that connexion, that the world community as a whole had an interest in obtaining early access to the resources of the deep sea-bed and that the only people in the world who were at present willing to risk the investment needed to develop the capacity to reach the resources of the deep sea-bed were to be found in a handful of companies that had formed consortia for the purpose.

24. He wished to emphasize that the legislation contemplated by his Government would not in any way be inconsistent with the régime that the Conference was seeking to create. No country—certainly not his own—would prefer national legislation to an international régime. Everyone hoped that the Conference would succeed in establishing an International Sea-Bed Authority to control the mining operation.

25. With respect to the purely legal issue, he was obliged to comment on a statement made some days earlier by the previous Chairman of the Group of 77 to the effect that the preparation of legislation did not conform to the expected principles and ethical standards of parties to international negotiations. His Government categorically rejected that statement, since it was not aware of any grounds in international law or conduct for the thesis that the preparation of legislation ran counter to ethical standards.

26. Companies could not be expected to suspend the development of technology simply because the Conference was lasting an extremely long time. They were unable to continue

without a legal framework and no one could guarantee that an international régime would, in fact, be established. If such a régime were established, the earlier legal framework would be superseded. If it were not, there would be a continuing need for a substitute legal framework.

27. The best solution to the problem was, of course, to press on with the Conference and bring it to a successful conclusion.

28. The PRESIDENT said that, at the last meeting of the previous session, he had appealed to all delegations for patience and for a stay of execution. Whatever the position under international law, he did not think that any nation in the world could at the present juncture be indifferent to world opinion. It was important that no nation, however powerful, should give the impression that it was trying to substitute its own will for that of the international community.

29. There was a gentleman's agreement in the rules of procedure of the Conference that a consensus would be sought, at least with regard to central issues. That agreement imposed on all delegations the duty to avoid independent action both inside and outside the Conference, since decisions taken outside could well be considered as a repudiation of the consensus arrangement.

30. He hoped that the statement by the representative of the United States of America would provide some reassurance to participants, and would help to maintain the atmosphere of friendly co-operation which had hitherto prevailed in the negotiations.

31. Mr. WOLFF (Federal Republic of Germany) said that he wished to repeat his Government's view that legislation regulating the collection of manganese nodules by nationals of the Federal Republic of Germany from the sea-bed beyond the limits of national jurisidiction was not contrary to international law.

32. Past events had proved that national legislation relating to matters being dealt with in the Conference in no way prevented progress in reaching agreement.

33. National legislation was not intended as a substitute for the desired convention. Any such legislation would be of an interim nature and would cease to have effect on the day the convention came into force. He wished to reiterate that his delegation was deeply interested in the conclusion of such a convention.

34. Mr. ROSENNE (Israel) said that the only references to the settlement of disputes relating to the area were those to be found in article 158, paragraph 2 iii of the informal composite negotiating text,[3] concerning the selection of 11 members of the Sea-Bed Disputes Chamber by the Assembly—the future of which was itself in doubt—and in revised article 160 appearing in document NG3/4,[4] concerning the power of the Council to initiate certain proceedings on behalf of the Authority and to make recommendations on the basis of certain findings by that Chamber.

35. However, there was nothing in part XI itself of the negotiating text regarding the jurisidiction of any of the dispute settlement organs in relation to the settlement of disputes between States concerning the area. At most, some aspects of that jurisidiction might be obliquely deduced from a combination of provisions found in parts XI and XV and in annex V. In article 158 and revised article 160, there was no mention of the possibility of the Assembly and the Council being authorized to request advisory opinions in general from any dispute settlement organ, nor was there any mention of the possible role, in the settlement of disputes involving the area, of commercial arbitration through organs such as the International Chamber of Commerce.

36. Since the question of the jurisidiction of the appropriate dispute settlement machinery, including commercial arbitration, was a matter of great importance, perhaps even a "core issue" as defined at the seventh session, his delegation requested that the matter should be given further consideration in connexion with the organization of the work of the current session.

37. His delegation's position of principle on the settlement of disputes remained as it had indicated at the 62nd plenary meeting,[5] and its current suggestion was a technical one designed to facilitate the completion of the work and the clarity of the future convention.

38. The PRESIDENT said that the matter of settlement of disputes, with particular reference to commercial arbitration, would be dealt with in the informal plenary meeting and in meetings of the First Committee.

39. Mr. KOZYREV (Union of Soviet Socialist Republics) said that his delegation shared the concern of the Group of 77 regarding the unilateral activities now being proposed with reference to the resources of the international area of the sea-bed and that it supported the statement by the Chairman of the Group of 77.

40. He had listened with close attention to the statements by the representatives of the United States of America and the Federal Republic of Germany, but he still believed that the preparation of national legislation and unilateral activities with respect to the international area of the sea-bed was, to say the least, a manifestation of disrespect for the international community.

41. All representatives were agreed that questions of the sea-bed régime, including the system for the exploration and exploitation of sea-bed resources, formed an essential and inseparable part of the single over-all "package" solution of the principal problems of the régime of the seas. Thus, the planned unilateral action appeared to be an attempt to complicate the solution of the problems of the sea-bed régime and even to undermine the international settlement of questions relating to the use of sea areas and their resources on a mutually acceptable basis.

42. His delegation was, as previously, resolutely opposed to any unilateral national legislation and practical activities which would create difficulties for the work of the Conference. It would itself continue to make every effort to strengthen co-operation at the Conference with a view to the elaboration of a mutually acceptable convention on the law of the sea, taking into account the interests of all States.

43. Mr. ENGO (United Republic of Cameroon), speaking as Chairman of the First Committee and referring to the hard-core issue of transfer of technology, said that one of the main conditions demanded by the developing countries for accepting the so-called dual or parallel system proposed by the industrialized countries was that the latter should accept, in the words of the declaration adopted by the Council of Ministers of the Organization of African Unity at Nairobi in March (see A/CONF.62/72), "provisions for adequate financing, transfer of technology and training of personnel", as a means of ensuring that "the Enterprise shall be an effective operating organ, capable of undertaking activities in the area at the same time as other entities". Obviously, the idea was to make sure that both sides of the system were equally viable.

44. For the purpose of negotiations at the Conference, technology appeared to consist of two main items, namely, the actual equipment or machinery that had been developed or designed, and also the skills or know-how in the technical fields involved in sea-bed mining operations, from contract negotiation to the processing stage and perhaps beyond. The success or failure of agreement on the issue of the transfer of those

[3] *Ibid.*, vol. VIII (United Nations publication, Sales No. E.78.V.4).
[4] *Ibid.*, vol. X, p. 158.
[5] *Ibid.*, vol. V (United Nations publication, Sales No. E.76.V.8).

items for the interim period of 20 years might well dictate the fate of the system now being contemplated.

45. The acquisition of technology in terms of machinery or equipment was easier to negotiate, since it was now common ground that the Enterprise must be seen to be effectively operative. But the question remained as to what methods were to be employed. It had been agreed in principle that the Authority should have the financial capacity to acquire machinery, even if the scope and the source of such capacity still had to be worked out. An applicant could buy double the amount of his needs and arrange for the Authority to have half of that amount at the same price he paid for it. One danger was that the applicant might buy too many over-sophisticated models to meet a high standard when something equally effective might be obtainable at lower cost; or the product might prove to be poor and untested. An optional clause, i.e. discretion on the part of the Authority to receive or not to receive the technology, was therefore imperative. In the unlikely event that technology was developed by a State, a State enterprise or a private entity not for the purpose of sale but for its own use, some difficulty might arise as to who was to pay for the cost of research and development. Nevertheless, those were concrete situations that could be negotiated; in his opinion, the type of technology involved did not present a real problem from the standpoint of the question: "To whom must the technology be transferred?" More important was the question as to who must be entitled to a licence under the convention. The indisputable answer was the Enterprise itself.

46. Some begrudged direct transfer to the developing countries; they firmly believed, however, that all should agree that any entity, including a State, that was given access to the reserved area must, if it was to be productive, have the requisite technology, in terms of machinery and equipment etc., on the same conditions as the Enterprise. Otherwise there would be a risk of mismanagement of that area of the common heritage of mankind. No one could, in all seriousness, contemplate such a prospect. Given the proper political will, the matters he had referred to were still comparatively easy to negotiate.

47. A far more complex question was the transfer of know-how. In that connexion, how was an applicant to fulfil the obligations concerning transfer? The necessary skilled personnel were difficult and expensive to obtain; yet they were a crucial element in the whole matter. What use would sophisticated machinery be to the Enterprise and to others engaged in activities in the reserved area during the 20-year interim period if the know-how for the activities was either deficient or non-existent? However, that important matter need not divide the Conference, which must consider ways and means of increasing the availability of technological skills. All delegations were committed to: first, a viable Enterprise that would enter into being as soon as activities commenced in the area and would have sufficient ability for efficient exploitation, so as to generate maximum benefits for the Authority; secondly, fulfilment by the Authority of the important function of ensuring effective participation in sea-bed activities by all mankind, irrespective of geographical location or level of economic development; thirdly, arrangements to ensure that the contract area would be efficiently exploited in order to generate maximum profits for the Authority as well as for the contractor in terms of the financial and other benefits to be derived from the area.

48. In recent years he had been greatly troubled by the question as to how the international community could find a solution to that problem in times of grave shortages and an uneven distribution of the benefits of sea-bed technology, which many now regarded as the common heritage of mankind. He had dreaded the prospect that the Conference's labours in producing a historic convention might be frustrated by the tragedy of lack of means to implement all aspects of the convention in a cruel world of subjectivity and in a young, fragile international community still plagued by conditions of war and ultra-nationalism. The argument advanced by some industrialized countries and by the international press to the effect that the Authority and the Enterprise would belong to the developing countries was an even greater cause for concern. The Authority was being established for the benefit of mankind as a whole and should not be treated patronizingly as a representative of the developing world. Nevertheless, it was essential to avoid creating, even indirectly, conditions conducive to a monopoly for those who had the technological and financial capacity to carry out activities in the area. The time had come to discuss the whole matter openly.

49. It was heartening that some of the industrialized countries had expressed a readiness to combat a serious problem straight away. At the twelfth special session on the issues of the law of the sea, at Nairobi in March, the Council of Ministers of the Organization of African Unity had called for an immediate programme for the training of personnel and had expressed considerable concern about a probable monopoly by nationals of industrialized countries in the technical fields of mining and processing. Again, at a recent meeting at Yaoundé, sponsored by his Government and organized as the annual *Pacem in Maribus* conference by the International Ocean Institute of Malta, 80 experts had adopted the theme "Africa and the Law of the Sea" and had, *inter alia*, considered what Africa would gain or lose from the convention now under negotiation.

50. Initially, progress in reaching agreement on a treaty governing the exploration and production of minerals from the ocean floor had seemed slow, but the negotiations had none the less reached a stage in which delegations could be reasonably confident that they would be completed successfully and that sea-bed mining would take place under an international régime within a period of four or five years. It was also possible to foresee much of the framework within which such mining operations would be carried out. A key role would be played by the International Sea-Bed Authority, which would be a resource management organization undertaking the diverse and complex range of activities that its broad responsibilities would involve. For example, it would engage in scientific research, review and act on applications for exploration and mining, examine proposed work plans, select the mining sites to be reserved for the Authority, develop regulations governing the conduct of activities in the area and ensure that mining operations would comply with those regulations. In addition, it would be deeply involved in the process of transfer of technology to the Enterprise and it would also collect revenues.

51. The Authority must be ready to fulfil its functions when sea-bed mining under the terms of convention commenced, and plans should therefore be made to ensure that it would become operational as early as possible after ratification of the convention. It was perhaps too soon to begin organizational planning, but it was not too early to start considering how the Authority was to be staffed with the full range of experts that would be required and where those experts would come from. As an international organization, the Authority should of course be staffed on the basis of equitable geographical distribution and the problem of securing such distribution in the early years of the Authority's existence called for immediate attention. At the time, many of the developing countries did not have a surplus of persons with the requisite training for participation in the work of the Authority. Such a situation threatened effective participation by most young countries in activities in the area. Nearly all developing countries had sufficient numbers of lawyers and people trained in non-scientific and non-technical fields, but surely nobody would want to see an Authority in which the lawyers and secretarial staff all came from developing countries and the geologists, engineers and oceanographers all came from industrialized

countries. Unless immediate steps were taken to educate and train people from the developing countries in the relevant scientific and technical fields, across-the-board geographical balance in the staffing of the Authority would take a long time to achieve.

52. Fortunately, there were two circumstances which should make it possible to provide a balanced staff for the Authority early in its operations. One such circumstance was that, if action was taken immediately, sufficient time was available to pursue an orderly process of education and training of citizens from developing countries, since it would be several years before sea-bed mining could begin. The other circumstance was that technical training programmes already existed to assist students from the developing countries. So far, those programmes had not focused on fields directly related to sea-bed mining, but it seemed likely that the necessary changes could be made if the relevant needs were defined. Such technical training programmes existed in one form or another in all the countries with the greatest current involvement in preparations for sea-bed mining and, although most of the expertise in sea-bed mining was doubtless to be found in the mining consortia, oceanography, marine geology and other relevant disciplines were part of the curricula of several universities in the industrialized countries. Support for assistance in training students in sea-bed resource management could come not only from the industrialized countries but also from the more fortunate developing countries already engaged in such activities in conjunction with the production of their own resources. Some of them might well be able to provide on-the-job training and some might also be able to give financial support. Consequently, it did not seem difficult to prepare students from the developing countries for full participation in the work of the Authority, if the task was undertaken without delay.

53. The Secretary-General could be requested to make an up-to-date analysis of the probable composition of the Authority's staff, and of its secretariat in particular, so as to give an idea of the numbers of persons qualified in various disciplines that might be needed during, say, the first five years of the Authority's existence. The Secretary-General could also be requested to compile a list of the institutions that might provide financial assistance for education and training in the appropriate fields. Firm support from developed countries, especially the industrialized countries, was indispensable. Lastly, the United Nations could serve as a clearing house for requests from developing countries and could help to secure support for trainees and place them in suitable programmes. Another step would be for the developing countries to take stock of their manpower pools and seek appropriate educational training for their nationals. While some developing countries already had trained personnel in the relevant fields, many others had not and they would need to take the initiative in seeking the help that they required.

54. Over the longer term, it would be desirable for many developing countries to increase the capabilities of their own educational institutions and, in that respect, they would require some initial outside help. Some attempts were already being made and there were prospects of directing further efforts towards problems relating to the sea-bed. For example, a programme in the United States was beginning to support the development of a "sister universities" programme in which United States institutions would help counterpart educational institutions in developing countries to start up or strengthen educational facilities in marine sciences. Programmes of that type were needed not only to provide staff for the Authority but also to achieve the even more important long-term objective of helping to prepare developing countries to participate in the full range of activities involved in the use of marine resources. In short, reasonable ways of surmounting the problem of preparing personnel from developing countries to take part in the work of the Authority and in other marine activities could be foreseen, if the problem was tackled immediately. On the other hand, if an immediate programme was to succeed, it was essential to know what type of manpower would be needed to make the Authority fully effective in the technical field. He therefore requested the Special Representative of the Secretary-General to ensure that the studies in question would be carried out and he was sure that the Conference could always count on the dedication and expertise of the Secretariat in that matter.

55. Mr. ZULETA (Special Representative of the Secretary-General) said that the requests made by the Chairman of the First Committee would receive immediate attention. Fortunately, the Secretariat had already been able to collect certain information and, in the course of the session, it would be issuing a preliminary report on the question of possible professional training programmes for persons from developing countries in sea-bed mining and related matters. Obviously, a detailed and precise programme would depend on the nature of the final agreement reached by the Conference on the structure and functions of the Authority and Enterprise, and on a better knowledge of the numbers of qualified experts available in the developing countries.

56. Mr. DE LACHARRIÈRE (France) said that the very important statement by the Chairman of the First Committee had drawn attention to fundamental issues that would certainly merit very careful consideration.

57. For the moment, his delegation wished simply to reiterate its position that unilateral legislation on the matter of exploitation of the resources of the sea-bed was entirely licit, whether under customary law or treaty law. In particular, nothing existed under customary law to prevent the adoption of such legislation. Quite a different matter, however, was the question of whether legislation of that type was desirable. Indeed, his own country held the view that unilateral legislation could only be a last resort to which Governments would be reduced if the Conference failed to produce with sufficient rapidity a sound convention that struck a reasonable balance between all the interests involved. Consequently, his delegation was prepared to co-operate in any efforts to arrive at the adoption of such a convention with respect to the law of the sea in general and to the international area of the sea-bed and ocean floor in particular.

58. Mr. AN Zhiyuan (China) said he fully supported the equitable and reasonable statement made by the representative of Honduras on behalf of the Group of 77, which had expressed opposition to any unilateral legislation by any country concerning the exploration or exploitation of the resources of the sea-bed. Following several years of negotiations, the Conference was now entering the final stages of its work and, if some countries decided to enact unilateral legislation permitting their nationals to engage in exploitation of the resources of the international area of the sea-bed, such a course would be in breach not only of the relevant United Nations resolutions but also of the practice of international law. Indeed, it would damage the achievements of the Conference and adversely affect the current negotiations. He hoped that all countries would respond to the appeal made by the Group of 77 and refrain from such action and that, as a result of common endeavours and co-operation, the present session would achieve positive results. His delegation was ready to contribute to that objective.

59. Mr. ARCULUS (United Kingdom) said it was extremely important that the outcome of the present session should be successful and, on the matter of deep sea-bed mining, he would simply refer participants to the position expressed by his delegation at the previous session.

60. With regard to the important question of transfer of technology, his own delegation and others of members of the European Economic Community had already made a con-

structive suggestion at an earlier session. Moreover, his country had reached positive conclusions on the question of training personnel, a question which had been mentioned earlier by the Chairman of the First Committee, and would discuss the matter later in the appropriate negotiating group. His Government was fully prepared to participate in appropriate arrangements to help train prospective key personnel for the Authority and the Enterprise during the period between the adoption and the entry into force of the convention, so that such personnel could acquire the necessary skills and the Authority could play its role effectively under the convention when the latter came into force.

61. Mr. MAZILU (Romania) said that he fully supported the statement made by the representative of Honduras on behalf of the Group of 77. The common heritage of mankind should be exploited by all countries, and their participation in the exploration and exploitation of the international sea-bed area was a fundamental question of principle. The Conference had before it the important task of negotiating and adopting a convention that would ensure such participation not only in sea-bed exploration and exploitation but also in profit-sharing.

62. His delegation hoped that better results would be achieved at the present session and that the text adopted would reflect the interests of every country and a desire for co-operation in the exploitation of marine resources for the purpose of building a new international maritime order.

63. Mr. BENCHIKH (Algeria) said that it was not possible to expect a successful outcome to the session or successful implementation of the future convention if the Conference failed to consider in great detail the very important question of transfer of technology and of professional training in the expertise required for exploration and exploitation of the resources of the sea-bed. As pointed out earlier, certain recommendations had already been made in that connexion at the special session of the Council of Ministers of the Organization of African Unity held in March 1979. Accordingly, he supported the statement made by the Chairman of the First Committee and requested that it should be reproduced *in extenso* in the summary record. In addition, the resolutions concerning the law of the sea adopted at the recent special session of the Council of Ministers of the Organization of African Unity should be issued as a document of the Conference.

64. The PRESIDENT said that, if there was no objection, he would take it that the Conference wished the statement by the Chairman of the First Committee to be reproduced *in extenso* in the summary record.

It was so decided.

65. The PRESIDENT said he had been informed that, in accordance with an understanding reached earlier concerning the composition of the General Committee, the delegation of Belgium should replace the delegation of Ireland in the capacity of Vice-Chairman of the General Committee. If he heard no objection, he would take it that the Conference agreed to take that course.

It was so decided.

66. Mr. KOZYREV (Union of Soviet Socialist Republics) drew attention to the fact that a seat had been reserved in the Conference room for so-called Democratic Kampuchea; but everyone was aware that a popular uprising had overthrown the despotic régime of Pol Pot. The country had been proclaimed a People's Republic and now had a legitimate Government which enjoyed the full support of the Kampuchean people, had received widespread international recognition and was the only Government that could represent the Kampuchean people at the Conference. The Pol Pot clique no longer represented anyone and, consequently, had no right to speak at the Conference on behalf of the Kampuchean nation.

67. The PRESIDENT said that the Conference was concerned with the legitimacy of representation by delegations and not with the nature of the régimes that governed countries. He would arrange with the Chairman of the Credentials Committee for the Committee to meet to resolve the matter as soon as possible.

The meeting rose at 1.10 p.m.

111th meeting

Wednesday, 25 April 1979, at noon

Chairman: Mr. H. S. AMERASINGHE.

Adoption of a convention dealing with all matters relating to the law of the sea, pursuant to paragraph 3 of General Assembly resolution 3067 (XXVIII) of 16 November 1973, and of the final act of the Conference

1. Mr. STAVROPOULOS (Greece), Chairman of Negotiating Group 5, said that, following consultations with delegations during the early part of the session, it had appeared that no useful purpose would be served by holding further meetings of the Group; the Group had not therefore met during the present session.

2. In reporting to the plenary meeting on 19 May 1978, he had presented the compromise formula prepared by the Group (NG5/16).[1] Although reservations had been expressed, that formula had received widespread and substantial support amounting to a conditional consensus, i.e. a consensus conditional upon an over-all package deal. On the same day, the President of the Conference had indicated that Negotiating Group 5 had successfully concluded its mandate but that other issues relating to articles 296 and 297 of the informal composite negotiating text[2] still had to be considered.

3. One such issue was mentioned briefly in the second footnote of document NG5/16, relating to article 296, paragraph 2 (*a*), which dealt with the settlement of disputes concerning, first, the right of coastal States to regulate, authorize and conduct marine scientific research, it being required that such activities should be conducted with the consent of the coastal State (article 247, paras. 1 and 2), and, secondly, the right of a coastal State to require the cessation of research activities in progress (article 254). The same topics were covered in article

[1] *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. X (United Nations publication, Sales No. E.79.V.4), p. 120.

[2] *Ibid.*, vol. VIII (United Nations publication, Sales No. E.78.V.4).

265. However, article 296, paragraph 1, included preliminary procedural safeguards applicable to all cases where the sovereign rights of coastal States were concerned, but no such safeguards were included in article 265, which related to the settlement of disputes with regard to marine scientific research. In addition, it seemed desirable that all dispute settlements should be co-ordinated and incorporated in one part of the text. Accordingly, in order to avoid repetition or conflicting provisions, the two articles would have to be considered and a single provision maintained. At the previous session, he had drawn attention to that point and to the need to have it considered by the appropriate Committee or, in any event, by the informal plenary meeting on settlement of disputes.

4. The other issue which had been raised in the Group but remained outstanding was the question of article 297, paragraph 1 (*b*), concerning military and law enforcement activities. The new formulation of article 296 and article 296 *bis* suggested in document NG5/16 might make it necessary to co-ordinate article 297, paragraph 1 (*b*), with the new compromise formulae. In any case, the very content of article 297, paragraph 1 (*b*), had been the subject of conflicting views expressed both in the plenary meeting and in the Negotiating Group; but interested delegations had later proved reluctant to raise the matter. It seemed therefore that the present formulation in the negotiating text might simply need to be co-ordinated by the plenary with the new articles 296 and 296 *bis*.

5. It should be noted that the texts suggested in his compromise formula for articles 296 and 296 *bis* dealt solely with the exercise of sovereign rights of coastal States in the exclusive economic zone and the settlement of disputes relating thereto. The Negotiating Group had also discussed a general provision on the abuse of rights which had implications that went beyond the Group's mandate. The Group had therefore recommended that such a provision should first be referred to the informal plenary meeting on settlement of disputes before any action could be taken on it.

6. In his opinion, the conclusion that there was widespread and substantial support for the formulations contained in document NG5/16, and the plenary meeting's view that the Group had successfully concluded its mandate, should be reflected in the further work of the Conference and in any revision of the negotiating text.

7. The PRESIDENT thanked the Chairman of Negotiating Group 5 for his report and for the work he had done for the Conference.

8. Mr. ANDERSEN (Iceland) said that, on a number of occasions, his delegation had expressed its view that the sovereign rights of the coastal State in the exclusive economic zone should be fully respected and that no third party should be able to decide on any limitation of those rights, which should not be jeopardized in any way. Unfortunately, the conciliation procedures suggested in the compromise formula for article 296 could be used for the purpose of harassing the coastal State, thus leading to loss of time and undesirable expense. However, such harassment would not in any sense be a conciliatory gesture and would in some cases defeat its own purpose. Accordingly, the text in its present form should work reasonably well in practice and any difficulties that might arise could be dealt with by the coastal State, in the light of circumstances existing at the time, with a view to protecting fully the vital interests of the coastal State concerned.

9. Mr. NASINOVSKY (Union of Soviet Socialist Republics) said that the question of the competence of Negotiating Group 5 had not been considered at the present session, and the Group had not in fact done any work. The Soviet delegation, in its statements in the Group and in the plenary meeting at the previous session, had clearly indicated that it entirely disagreed with the so-called compromise formula suggested by the Chairman of the Group in document NG5/16. A number of other delegations had also expressed doubts and objections concerning that formula, while delegations which had agreed to the formula had linked their agreement to the results of the work in Negotiating Group 4, since the issues dealt with by the two Groups were interrelated.

10. The work of Negotiating Group 5 was very closely connected with other matters which had not yet been settled. It was not possible to solve the problem of the settlement of disputes concerning the living resources of the exclusive economic zone in isolation from the question of exceptions to the general procedure for the settlement of disputes; nor was it possible to disregard other categories of disputes, in particular disputes concerning delimitation, which involved the sovereign and inalienable rights of States. The Chairman of the Group had pointed to the need to co-ordinate the texts of certain other articles and, since the discussion of a number of issues had not been completed, it was obvious that the Group's work must be continued at the next stage of the Conference with a view to arriving at a solution that was satisfactory to all delegations.

11. Mr. OXMAN (United States of America) congratulated the Chairman of Negotiating Group 5 on the work undertaken with regard to the settlement of disputes concerning the living resources of the exclusive economic zone, and on the formula suggested for articles 296 and 296 *bis*.

12. His delegation noted that another matter remained pending in connexion with article 296 — namely, the question of marine scientific research. It therefore wished to propose that in article 296, paragraph 3 (*a*), the words "a right or" should be deleted and the words "to withhold consent" should be inserted after the word "discretion". The relevant part of the text would thus read: "in no case shall the exercise of discretion to withhold consent in accordance with article 247 . . . be called in question". Such an amendment would in effect amount to a drafting change, because article 296, paragraph 3 (*a*), had been drafted at a time when article 247 had dealt solely with the question of consent. Later, however, a new paragraph had been added to article 247 dealing with matters other than consent. A more precise wording of article 296, paragraph 3 (*a*), was therefore necessary in order to reflect its true intent.

13. In addition, paragraph 3 (*a*) should not include any reference to article 254. Hence, the words "or a decision taken in accordance with article 254" should be deleted, as should the words "and 254", which did not in any case appear in the Russian text. The exception to the dispute settlement procedure would then relate solely to the exercise of discretion to withhold consent.

14. The reason for the proposed change lay in the fact that article 254 permitted the coastal State to require the cessation of a project that was already in progress and had been started with the consent of the coastal State under the convention. Such a decision should be distinguished from the exercise of discretion to deny consent before a project began. In some cases the loss of scientific knowledge might be the same, but the economic costs and loss of valuable time for trained personnel and specialized equipment when a project in progress was halted were quite different. The coastal State's authority to require the cessation of a project that had already commenced with its consent under the terms of article 254 was onerous. For practical purposes, the exercise of that authority by the coastal State, whether or not it was lawful, might end a particular project. Therefore, it was both unnecessary and inappropriate to exclude such a decision from dispute settlement procedures.

The meeting rose at 12.25 p.m.

112th meeting

Wednesday, 25 April 1979, at 4.10 p.m.

Chairman: Mr. H. S. AMERASINGHE.

Adoption of a convention dealing with all matters relating to the law of the sea, pursuant to paragraph 3 of General Assembly resolution 3067 (XXVIII) of 16 November 1973, and of the final act of the Conference (*continued*)

1. Mr. CASTAÑEDA (Mexico), speaking on behalf of the group of coastal States, said that the coastal States had always taken the view that disputes which might arise from the exercise of their sovereign rights within their economic zones should not be subject to a compulsory dispute settlement procedure. Furthermore, the informal composite negotiating text[1] gave coastal States discretionary powers in regard to the exercise of sovereign rights. However, in a constructive spirit and desiring to achieve a solution which would be acceptable to all, the group of coastal States had agreed to negotiate with other States interested in that issue. The negotiations had culminated in the establishment of Negotiating Group 5 which had arrived at a compromise solution acceptable to the two main groups of countries, namely the coastal States and the land-locked and geographically disadvantaged States. The coastal States had made many important concessions, including acceptance of compulsory conciliation in certain types of dispute. However, that was the maximum concession they could make, and they were unable to modify their position further in any respect. Accordingly, it would be quite pointless to re-open the negotiations. In conclusion, his delegation and the delegations of the coastal States wished to pay tribute to the Chairman of Negotiating Group 5 for his work.

2. Mr. HAFNER (Austria) said that his delegation had consistently maintained the view that the judicial settlements of disputes arising out of the application or interpretation of the convention should be binding. However, it believed that at the present stage the Conference should consider the compromise proposed by Negotiating Group 5 as a useful step in the direction of a consensus. In conclusion, his delegation wished to express its sincere gratitude to the Chairman of the Group.

3. Mr. VALENCIA RODRÍGUEZ (Ecuador) said that his delegation, like other members of the group of coastal States, considered that the rights and powers of coastal States within the 200-mile zone should be fully respected. Since those rights were sovereign, any dispute arising out of them should be settled by national courts or tribunals. In principle, his delegation viewed with sympathy the report of Negotiating Group 5 regarding recourse to compulsory conciliation. However, it could not go beyond its present position, and believed that it was unnecessary to re-open the debate on the subject which was, moreover, closely linked with matters under consideration elsewhere, particularly in Negotiating Groups 4, 6 and 7. His delegation was not in favour of splitting up the global negotiating package through the endorsement of partial consensuses which might upset the balance of the entire package. It believed that the report of Negotiating Group 5 should be kept in reserve, pending the reports of the other groups, and it wished to express its appreciation to the Chairman of Negotiating Group 5 for his valuable work.

4. Mr. ARIAS SCHREIBER (Peru) said that, when the compromise text (NG5/16)[2] had been submitted by the Chairman of Negotiating Group 5 to the Conference at its seventh session, it had been approved by the group of coastal States, then consisting of 80 countries, and by several other delegations. Certain delegations had, however, entered some formal objections.

5. On the precedent of the decision taken with respect to the report of Negotiating Group 4, his delegation considered that the compromise text commanded the widespread and substantial report needed for inclusion in the revised negotiating text. The fact that some States dissented from that view should not prevent its inclusion.

6. Mr. DE LACHARRIÈRE (France) said that his delegation considered that the compromise text submitted by the Chairman of Negotiating Group 5 should be included in any revision of the negotiating text.

7. Mr. MONNIER (Switzerland) observed that the spokesman for the group of coastal States had stated that the text represented the maximum concession which could be envisaged. His own delegation fully concurred, though possibly for diametrically opposite reasons.

8. Since the text before the Conference constituted the only acceptable compromise formula, it satisfied the criteria for inclusion in any revision of the negotiating text.

9. Mr. BEESLEY (Canada) said that his delegation's position on the settlement of disputes had been set out in a statement to the Conference three years previously.[3] The basic objective of the Canadian Government was to ensure the inclusion in the convention of a comprehensive system of compulsory dispute settlement procedures.

10. His delegation agreed, of course, that consideration should be given to certain matters requiring treatment of a different type, particularly the exercise of agreed discretionary powers by coastal States in respect of their sovereign rights in the exclusive economic zone. Nevertheless, it was prepared to accept third-party adjudication in respect of gross abuse by coastal States in the exercise of such rights or powers, on the assumption that user States would be subject to the same type of provision in respect of the exercise of their rights and duties.

11. It was regrettable that the notion of abuse of power had not proved generally acceptable. In its place, the Chairman of Negotiating Group 5 had presented a text which, he thought, offered a reasonable prospect of consensus. The Canadian delegation accepted that assessment.

12. Mr. KACHURENKO (Ukrainian Soviet Socialist Republic) said that several different views regarding dispute settlement procedures had been expressed in Negotiating Group 5, but, in his delegation's opinion, they were not all reflected in the compromise text submitted by the Chairman of the Group. His own delegation's view was close to that expressed by the representative of Ecuador. In the circumstances, he did not think that the compromise text commanded enough support to warrant its inclusion in the revised negotiating text.

13. Mr. RICCHERI (Argentina) said that the compromise text constituted the maximum concession that coastal States were able to make on the question of procedures for the settlement of disputes concerning fishing in the economic zone. His delegation, while accepting that the text satisfied the criteria for inclusion in the revised negotiating text, agreed

[1] *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. VIII (United Nations publication, Sales No. E.78.V.4).

[2] *Ibid.*, vol. X (United Nations publication, Sales No. E.79.V.4), p. 120.

[3] *Ibid.*, vol. V (United Nations publication, Sales No. E.76.V.8), Plenary Meetings, 65th meeting.

with the representative of Ecuador that all texts approved to date formed part of a package deal.

14. The PRESIDENT asked whether the delegation of Ecuador regarded the compromise formula as suitable for inclusion in the revised negotiating text.

15. Mr. VALENCIA RODRÍGUEZ (Ecuador) said that, although his delegation regarded the report of Negotiating Group 5 as being intimately related to the reports of Negotiating Groups 4, 6 and 7, it would accept the view of the majority regarding its inclusion or otherwise in the revised negotiating text.

16. The PRESIDENT said that it was clear from the statements made that the compromise text presented by the Chairman of Negotiating Group 5 satisfied the criteria for inclusion in any revision of the negotiating text.

17. He invited the Conference to consider the report of the Chairman of Negotiating Group 7 (NG7/39).

18. Mr. BEESLEY (Canada) said that it was the considered view of his delegation that procedures for the settlement of disputes on maritime boundary issues could not be treated in isolation but had to be considered as part of a comprehensive package. It was essential that objective delimitation criteria should be included in the convention so that States could settle their maritime boundaries in a manner free from subjective considerations. The further the Conference went towards elusive and subjective concepts divorced from objective criteria, the more essential it was to establish a third-party dispute settlement mechanism to give legal content to such elastic concepts.

19. The proposal by the Chairman of Negotiating Group 7 (NG7/39) failed to meet the essential need of assured procedures for resolving once and for all the conflicts regarding maritime boundaries. The suggested text might serve as a basis for further discussion, but the final decision regarding the acceptability of a dispute settlement provision had to be reached in the light of the inclusion of objective delimitation criteria in the convention.

20. Mr. LACLETA (Spain), speaking as co-ordinator of the sponsors of document NG7/2, said that those delegations considered that there was a close link between the three aspects of the delimitation problem — namely, delimitation criteria, interim measures and the settlement of disputes. It was obvious that the greater the subjectivity of the delimitation criteria, the greater the need for a binding procedure for settlement of disputes.

21. It was stated in the report of the Chairman of Negotiating Group 7 that "several delegations still remain determined to advocate compulsory and binding procedures". That was not an accurate reflection of the situation and he suggested that the words "several delegations" should be replaced by the words "many delegations".

22. The report also contained a personal proposal by the Chairman regarding the possible redrafting of article 297, paragraph 1 (*a*). The delegations which he represented thought that that formulation was absolutely inadequate, since it proposed only conciliation among the parties, followed by recourse to other procedures.

23. With respect to the statement in the report that "proposals were made for the modification of the *chapeau* of article 297 and for the deletion of paragraph 2 of article 74" and that "no conclusions were drawn on these points", he wished to emphasize that the reason why no conclusions had been reached was that there had been little support for the proposals concerned.

24. The delegations he represented agreed with the conclusions of the Chairman of Negotiating Group 7, especially with respect to the general feeling in the Group that negotiations on the issues still pending solution should be continued.

25. Mr. HOLLANDER (Israel) said, with regard to the dispute settlement aspect of the report of the Chairman of Negotiating Group 7, he wished to refer to his delegation's statement at the 57th meeting of the Second Committee. For the reasons given in that statement, his delegation believed that the inclusion of the settlement of disputes regarding delimitation was an unnecessary encumbrance on the terms of reference of the Group, and that that issue might well be removed from the Group's terms of reference.

26. In his delegation's view, there was no inherent difference between disputes relating to maritime boundaries and disputes relating to land frontiers, since both dealt with the spaces over which sovereignty or sovereign rights might be exercised. His delegation could see no objective reason for singling out some maritime delimitation disputes for special treatment.

27. Mr. IRWIN (United States of America) said that his delegation still considered it premature to attempt to revise article 297, paragraph 1 (*a*).

28. Mr. ZEGERS (Chile) said that almost all the proposals submitted to Negotiating Group 7 contained a compulsory dispute settlement element. Unfortunately, the Chairman of the Group had selected a formulation for article 297, paragraph 1 (*a*), which not only appeared to exclude compulsory settlement of disputes but might even exclude compulsory conciliation. The formulation related only to future disputes; it established an obligation to agree to compulsory conciliation only within a "reasonable period of time" whose duration was not specified, and it contained no reference settlement of disputes concerning territories and islands. In short, either on the grounds that all disputes involved past elements or a territorial element, or on the grounds that the "reasonable period of time" was not specified, a party would be able to exclude itself not only from the compulsory dispute settlement but also from compulsory conciliation.

29. The formulation proposed by the Chairman of Negotiating Group 7 did not reflect either the discussions that had taken place in that Group or the general situation in the Conference. The Chairman of the Group thus appeared to have failed to comply with his mandate to reflect what had occurred in the negotiations. Consequently, the Chilean delegation would regard the formulation in question as null and void. However, his delegation wished to reiterate its view that the work of the Group had proved useful and that negotiations within the Group should continue.

30. Mr. STAVROPOULOS (Greece) said that his delegation did not consider the formulation of article 297, paragraph 1 (*a*), proposed by the Chairman of Negotiating Group 7 to be satisfactory, mainly because the formulation addressed itself to the future and because the conciliation procedure it envisaged was inappropriate because delimitation was not a political but a legal issue and a binding adjudication could be made only by a legal body. Furthermore, the last sentence of the formulation, with its reference to "mutual consent" seemed incompatible with the idea of compulsory adjudication. In the view of his delegation, since no conclusion acceptable to all parties was yet in sight, work should continue on the question.

31. Mr. SAMPER (Colombia) said that his delegation generally agreed with the views expressed by the delegations of Spain, Canada and Chile. He recalled the tripartite mandate of Negotiating Group 7, and drew attention to paragraph 10 of document A/CONF.62/62[4] governing modifications or revisions to the informal composite negotiating text. His delegation considered that the text submitted in respect of paragraph 1 of article 74 and of article 83 seemed to indicate that some progress had been achieved; however, the formulation suggested in respect of paragraph 3 of those articles was retrogressive and the rule on interim measures needed to be improved. The formulation of article 297, paragraph 1 (*a*), proposed by

[4] *Ibid.*, vol. X, p. 6.

the Chairman of Negotiating Group 7 was completely unacceptable to his delegation since the conciliation procedure it envisaged did not offer sufficient guarantees. It was clear from the Chairman's own statements in the report that the conditions set out in paragraph 10 of document A/CONF.62/62 had not been satisfied. In conclusion, his delegation believed that negotiations on the pending issues, which constituted an indivisible whole, should be continued.

32. Mr. ATAÍDE (Portugal) said that his delegation concurred with the opinion expressed by the Spanish delegation regarding the need for closer and even indissoluble links between delimitation criteria, interim measures and the settlement of disputes. However, his delegation considered that the report of the Chairman of Negotiating Group 7 did not clearly reflect the growing support for the principle of the median-line as a basic principle for determining maritime boundaries between opposite or adjacent States. The median-line concept was in his delegation's view, extremely important for the continuation of the negotiations. In conclusion, his delegation wished to thank the Chairman of the Group for his work.

33. Mr. DE LACHARRIÈRE (France) said that his delegation also wished to congratulate the Chairman of Negotiating Group 7 on the manner in which he had performed his difficult task. It considered that in matters relating to the delimitation of maritime boundaries, there should be a very close link between the establishment of areas, their delimitation, and the procedures for the peaceful settlement of disputes that might arise. The Conference, by introducing into positive law such concepts as that of the economic zone, had at the same time incurred the risk of opening the way to an unending series of disputes between countries which would, in the future, be neighbours by reason of the creation of economic zones. The responsibility of creating the possibility of international disputes, without establishing any procedure whereby those disputes could be settled, was an extremely heavy one. For that reason, his delegation had consistently supported compulsory or binding arbitration. It favoured the retention of the existing provisions in the negotiating text and did not believe that the discussions in the Group warranted a change in its position. Consequently, it considered that the existing wording of the negotiating text should be retained.

34. Mr. COQUIA (Philippines) said that his delegation believed that the formulation proposed by the Chairman of Negotiating Group 7 for article 297, paragraph 1 (*a*), was an improvement on the formulation in the negotiating text, since it envisaged a more friendly procedure for settling disputes, especially in the case of States belonging to the same regional organizations.

35. Mr. FIGUEREDO PLANCHART (Venezuela) said that some representatives appeared to believe that it was possible to achieve the results which Cato had achieved in Rome by repeating *ad nauseam* the phrase *"Delenda est Carthago"*. Today, the Conference was repeatedly being told that States should be brought before an international forum even without their consent, as if such a course of action was a panacea which would solve disputes affecting sovereignty and State security. His delegation believed that such a course was not the right way of achieving consensus in the present, or any other, Conference. It did not object to the use of compulsory dispute settlement procedures; indeed, his country had ratified a number of conventions providing for such procedures and had in the past submitted on various occasions to international arbitration. However, his delegation could not accept a formulation which would, as it were, give international jurisdiction a blank cheque for settling questions affecting the sovereignty and vital interests of its country. His delegation did not reject the criteria proclaimed in Article 33 of the Charter of the United Nations but believed that genuine solutions to disputes affecting State sovereignty could be achieved only by direct agreement between the parties. Consequently, his delegation was opposed to any formulation which established *a priori* an automatic element either in the criteria to be applied in solving a dispute or in the machinery for doing so. It could not accept a formulation which, with respect to questions of delimitation, would establish a binding procedure involving a decision that would be obligatory for the parties. It believed therefore that the formulation submitted by the Chairman of Negotiating Group 7 was a realistic attempt to find a compromise solution.

36. Mr. KACHURENKO (Ukrainian Soviet Socialist Republic) said that at the present meeting a number of delegations had expressed their disagreement with the formulation of article 297, paragraph 1 (*a*), suggested by the Chairman of Negotiating Group 7. It should be noted, however, that in the Group many delegations had agreed that there were no rules of contemporary international law which obliged States to agree to a compulsory procedure for the settlement of disputes. The Chairman of the Group had been right to take that fact into account when preparing his suggested text; any attempt to impose a compulsory procedure would fail.

37. Mr. AL-MOR (United Arab Emirates) said that the proposed formulation of article 297, paragraph 1 (*a*), contained in document NG7/39 reflected the personal opinion of the Chairman of Negotiating Group 7, and not that of the majority of the Group. In view of the opinions expressed by that majority, any attempt to amend the text of article 297 would be premature. No decision could be taken regarding the acceptance or rejection of a proposal on the third-party procedure for the settlement of disputes unless the outcome of negotiations on delimitation criteria and interim measures was generally accepted and unless the content of the relevant rules was very precise and of a universal character.

38. Mr. PAPADOPOULOS (Cyprus) said that the report of the Chairman of Negotiating Group 7 did not accurately reflect the views that had been expressed in the Group. It was encouraging to note, however, that the report did state that the issues dealt with by the Group were closely interrelated and should be considered together as elements of a "package". The majority of delegations shared his delegation's view that provision should be made for an effective, comprehensive and expeditious dispute settlement procedure entailing a binding decision. The proposal put forward by the Chairman did not meet his delegation's minimum requirement, namely that flexibility on the issue would be warranted only if objective criteria and principles governing the median-line were adopted in paragraph 1 of article 74 and of article 83.

39. Mr. NASINOVSKY (Union of Soviet Socialist Republics) stressed the importance of the question of the settlement of disputes concerning delimitation. He could not agree with the representative of Greece that disputes concerning delimitation—in other words, disputes involving the sovereignty of States—had no political significance but were purely legal in nature. His delegation would not accept any provision for the compulsory settlement by a third party of disputes concerning maritime boundaries. The Chairman of Negotiating Group 7 had concluded rightly that contemporary international law did not contain any rules obliging States to submit disputes concerning maritime boundaries to third parties for settlement. It should be noted, in that connexion, that his country did not recognize the compulsory jurisdiction of the International Court of Justice. The formula for article 297, paragraph 1 (*a*), proposed by the Chairman of the Group, which was based on proposals made by various delegations, including those of the United States, Israel and Bulgaria, was the only possible basis on which a compromise on the matter could be reached.

40. Mr. YOLGA (Turkey) said that in the opinion of his delegation States could not be brought before a court against their sovereign will. The question of the settlement of disputes was directly linked to the notion of the sovereignty of States,