6. The President expressed appreciation for the spirit of compromise and for the co-operation shown by the delegations of the Netherlands and Switzerland which had indicated that they would not pursue the other suggestions in their informal proposal.

7. At the conclusion of the informal plenary meeting on the settlement of disputes, the President identified the other outstanding issues, which were as follows:

(i) The necessary changes to co-ordinate article 298, paragraph 1 (*b*), with article 296 as fomulated by negotiating group 5;

(ii) The report by the Chairman of the group of legal experts on the settlement of disputes relating to part XI;

(iii) The report of the Third Committee relating to the dispute settlement provision on marine scientific research;

(iv) The report relating to the dispute settlement provisions within the mandate of negotiating group 7.

8. Regarding the first item, as a consequence of the redrafting of article 296 by negotiating group 5, it has become necessary to bring article 298, paragraph 1 (*b*), in line with the new structure of article 296. Article 298, paragraph 1 (*b*), therefore needs to be reformulated to maintain its original intent.

9. Regarding the second item, the Chairman of the group of legal experts on the settlement of disputes relating to part XI has presented his report (A/CONF.62/C.1/L.26, appendix B) to the formal plenary Conference. The report has been presented to the working group of 21 of the First Committee, and to the Committee itself, where it has been considered. The changes suggested in that report relate to annex V, the statute of the Law of the Sea Tribunal, and in particular to the provisions concerning the Sea-Bed Disputes Chamber. This report could be accepted by the Conference without the need for a separate consideration of its content. The outstanding issues referred to by the Chairman would need to be dealt with at the first stage of the ninth session, and this has already been included in the decision of the Conference in the programme of work for that session. The Chairman is to be complimented on the excellent work done by the group which has been appreciated all around.

10. Regarding the third item, the Chairman of the Third Committee has presented his report to the plenary Conference and that included a new formulation of article 264 dealing with dispute settlement. There has been a discussion of that report and it is only necessary for the plenary Conference, therefore, to take note of the dispute settlement provision on the question of marine scientific research.

11. Regarding the fourth item, the Chairman of negotiating group 7 has also presented his report to the Conference. As all matters falling within the competence of that negotiating group are closely interrelated, including the dispute settlement provision, and as the Chairman had not presented any new formulations which would satisfy the conditions laid down by the Conference in document A/CONF.62/62, there is no need for the report to be discussed at the present stage.

DOCUMENT A/CONF.62/92

Statement by the representative of the United States of America in response to the statement by the Vice-Chairman of the group of coastal States contained in document A/CONF.62/90*

[*Original: English*]
[*1 October 1979*]

It is both surprising and distressing that distorted press reports should have caused such a stir at the Third United Nations Conference on the Law of the Sea, where the views of the United States with respect to navigation and overflight have long been well known to all participants. Press reports notwithstanding, those views have not changed. Activities in the oceans by the United States are fully in keeping with its long-standing policy and with international law, which recognizes that rights which are not consistently maintained will ultimately be lost. At the same time, it remains the firm position of the United States that a comprehensive convention on the law of the sea offers by far the best, and perhaps the last, opportunity to establish a universally agreed and conflict-free régime governing all uses of the world's oceans and their resources. We have indicated that, as part of such an agreement, we could accept a 12-mile territorial sea coupled with transit passage of straits used for international navigation, all within the context of the over-all package deal. In this regard, we note that the group of coastal States reaffirms its determination to continue working towards the early adoption of a generally accepted comprehensive convention on the law of the sea.

Let us not be diverted from our shared goal by debate over the very differences in national régimes that compelled our Governments to enter into negotiations in the first place.

*Circulated at the request of the representative of the United States of America.

DOCUMENT A/CONF.62/93

Statement by the representative of the United States of America in response to the statement by the Chairman of the Group of 77 contained in document A/CONF.62/89

[*Original: English*]
[*1 October 1979*]

It is regrettable that controversy has been introduced once again into the deliberations of this Conference, which can ill afford distraction from its goal of forging consensus on a comprehensive legal régime for the use and management of the oceans and their resources. In light of the full and repeated explanations of views and positions to which the Con-

ference has already been exposed, most recently on 28 August and 15 September 1978, and 19 March 1979, I shall respond as briefly as possible to the contention that the enactment of national legislation designed to regulate the conduct of deep sea-bed mining, and exploration and exploitation activities undertaken beyond the limits of national jurisdiction, would be illegal and potentially disruptive to this Conference.

My Government rejects outright the notion that United Nations General Assembly resolutions, including resolutions 2574 D (XXIV) and 2749 (XXV) and irrespective of the majorities by which such resolutions were adopted, are legally binding on any State in the absence of an international agreement that gives effect to such resolutions and that is in force for that State. Clear statements of our position are on public record, including those made in the course of debate accompanying the passing of the General Assembly resolutions just mentioned and those made in the course of the unfortunate exchanges on this subject that have taken place during the Conference on the Law of the Sea and in the United Nations Conference on Trade and Development.

There exists nothing in customary or conventional international law that precludes Governments from acting to regulate the activities of their citizens or that forbids Governments or private persons or entities access to the sea-bed beyond the limits of national jurisdiction for the purposes of exploring for and exploiting the resources there. Should the Conference succeed in producing a convention that establishes an international régime for the regulation of such exploration and exploitation, those States for which that convention is in force will forgo the exercise of these high seas freedoms. But for States not bound by such a convention, there are no legal impediments to these activities.

Legislation currently being contemplated in the United States would by its own terms be superseded by a convention in force for the United States. Moreover, legislation designed to establish a regulatory régime for deep sea-bed mining is compatible with the aims of the Conference as they have emerged in the course of negotiations. Finally, it is widely recognized that commercial recovery of deep sea-bed hard mineral resources cannot commence until the middle of the next decade, that is, far beyond the date that the Conference has set for itself for completion of the convention. Assuming continuation of the encouraging progress that has marked recent negotiations, legislation thus poses no threat to the orderly establishment of an international régime to regulate deep sea-bed mining activities. In the meantime, legislation is needed if the sizeable investment required for the continued development of technology is to be made.

With respect to the assertion that national legislation or prospective unilateral mining are disruptive to negotiations and will have an adverse impact on the Conference on the Law of the Sea and on other multilateral negotiations undertaken within the United Nations framework, I wish to say that such a result is not the intention of the United States. Indeed, if there is a burden being placed on the negotiations, it is the impression held by some that we will eventually agree to an unworkable international régime simply because we have no alternative means of access to resources we need. Let the prospect of legislation serve as a reminder that, to be acceptable, a convention must provide assured and non-discriminatory access to deep sea-bed resources for States and entities sponsored by States, on reasonable terms and conditions and with security of tenure for miners.

Let us end this sterile debate and get on with the important work of the Conference, for its success will make it unnecessary to put to the test conflicting views of nations and permit us all in concert to exploit the resources of the deep sea-bed for the common good of all mankind.

DOCUMENT A/CONF.62/94

Letter dated 10 October 1979 from the Chairman of the Group of 77 to the President of the Conference

[Original: English/French/Spanish]
[19 October 1979]

I have the honour to transmit to you herewith resolution I, adopted by the Ministers for Foreign Affairs of the member States of the Group of 77 on 29 September 1979 in New York, on the question of unilateral legislation on sea-bed mining, and to request you to have it circulated as an official document of the Conference.

(Signed) M. CARÍAS
Head of the delegation of Honduras
to the Third United Nations Conference
on the Law of the Sea
and Chairman of the Group of 77

Resolution I

QUESTION OF UNILATERAL LEGISLATION ON SEA-BED MINING

The Ministers for Foreign Affairs of the States members of the Group of 77,

Recalling General Assembly resolution 2749 (XXV) of 17 December 1970, whose principles held that the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction, as well as the resources thereof, are the common heritage of mankind, to be explored and exploited for the benefit of mankind as a whole and taking into particular consideration the interests of the developing countries,

Recalling various resolutions of the General Assembly, United Nations agencies, and regional and subregional groups, as well as resolutions 51 (III) of 19 May 1972 and 108 (V) of 1 June 1979 of the United Nations Conference on Trade and Development affirming the principle that all States should refrain from adopting legislation or any other measures designed to carry out the exploration and exploitation of these resources until an international régime and machinery is adopted by the Third United Nations Conference on the Law of the Sea,

Taking note of the fact that negotiations to create an international régime and machinery for the exploration and exploitation of these resources for the benefit of mankind as a whole are in progress under the auspices of the United Nations,

Convinced that such unilateral legislation would create a situation which would be prejudicial to the orderly exploration and exploitation of the resources of the sea-bed for the benefit of mankind as a whole,

Convinced also that unilateral legislation on sea-bed mining and other related matters will be contrary to well-established principles of negotiations and will have considerable negative impact upon the successful conclusion of the Conference and would endanger other economic negotiations and affect the interests of the international community,