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,

as had been affirmed by the International Court of Justice in its decision on the Aegean Sea Continental Shelf Case.[5] It should be noted that approximately 30 delegations had expressed that point of view. Despite the praiseworthy endeavours of Mr. Sohn and the representative of Israel, Negotiating Group 7 had been unable to reach a compromise on the question. It was essential, therefore, that the Group should continue its work on the matter during the next stage of the Conference's work. The ideas of the Chairman of the Group on the subject were realistic and sound. One question that had been fully debated in the Group was that relating to the non-retroactivity of the provisions of the future convention. His delegation had pointed out that the non-retroactivity rule was a general rule of international and domestic law, as was clear from the provisions of article 28 of the Vienna Convention on the Law of Treaties.[6] The new convention should contain a provision on non-retroactivity. As to the question whether a dispute had arisen prior to or after the entry into force of the convention, it should—as a result of Mr. Sohn's paper on the subject—be quite possible to solve that problem. In any case, the solution adopted must not conflict with the general rule of non-retroactivity.

41. Mr. PHAM GIAN (Viet Nam) said that, in the opinion of his delegation, disputes regarding delimitation should be settled through agreement of the parties by means of procedures freely chosen by them. Agreement of the parties was essential for any settlement whether of a definitive or of a provisional nature. That approach to the problem of delimitation of maritime boundaries was in keeping with the principle of the sovereign equality of States, which was set forth in the Charter of the United Nations and was regarded as a fundamental principle of international law. In Negotiating Group 7 many delegations had agreed with the idea expressed by the Chairman of the Group that there was nothing in contemporary international law obliging States to submit boundary disputes to a third party for settlement. A compromise solution might be to oblige the parties concerned to resort to a conciliation commission, whose recommendations would not be binding on the parties. It might be possible to reach a consensus on such a procedure. The proposal put forward by the Chairman should therefore be examined further. In the meantime, his delegation reserved its position on the matter.

42. Mr. SCHNEKENBURGER (Federal Republic of Germany) said that decisions on the delimitation of sea boundaries involved principles of State sovereignty and were of historical and political significance. The vital aspect of the resources of the disputed area greatly affected the economy and welfare of the peoples and States concerned. It was important therefore that, in the absence of an agreed negotiated solution, sea boundary disputes should be settled peacefully. From the outset of the negotiations, his delegation had been in favour of compulsory and binding third-party dispute settlement. The formulation put forward by the Chairman of Negotiating Group 7 was not in conformity with his delegation's position. Moreover, in view of the extensive negotiations held in the Group, that formulation was not realistic. The Group should continue its efforts to find a generally acceptable solution to the problem of the settlement of sea boundary disputes. His delegation was in favour of the existing text in the negotiating text.

43. Mr. MAHMOOD (Pakistan) said that the report of the Chairman of Negotiating Group 7, in so far as it related to dispute settlement, did not accurately reflect the negotiations on that matter in the Group. The compulsory third-party dispute settlement procedure enjoyed widespread support. Furthermore, the formulation suggested by the Chairman of the Group contained many conceptual contradictions; one example was the use of the phrase "shall, by mutual consent". His delegation agreed with those speakers who had said that the future convention should establish a compulsory procedure for the settlement of disputes and that there should be no differentiation between land-related and sea-related disputes. It also agreed that the formulation proposed by the Chairman should be considered as non-existent for further negotiations on the matter.

44. Mr. NOMURA (Japan) said that his Government had made clear its position on the question of dispute settlement in the Conference and in other forums. His Government had always been in favour of a third-party compulsory and binding procedure. His delegation agreed with the Chairman of Negotiating Group 7 that the stage had not been reached when the relevant provision of the negotiating text could be revised and that negotiations on the issue should be continued.

45. Mr. TREVES (Italy) said that, with regard to the substantive rules, his delegation did not share the views expressed by the representative of France, but it agreed with that representative's statement that there was a link between the substantive rules and the rules governing the settlement of disputes. The less satisfactory the substantive rules, the more necessary it was to have good rules governing the settlement of disputes. Since the substantive rules were unsatisfactory both in the negotiating text and in the proposals put forward by the Chairman of Negotiating Group 7, his delegation attached great importance to the existence of a rule providing for obligatory recourse to a system for the settlement of disputes. That was why his delegation saw no reason for changing article 297, paragraph 1 (*a*).

46. Mr. RICCHERI (Argentina) said that although his delegation had certain reservations regarding the report of the Chairman of Negotiating Group 7, it felt that the report should be given careful consideration in future negotiations. His delegation could not agree with some of the statements made by previous speakers to the effect that boundary disputes could be settled only through compulsory and binding procedures. In the Group, several delegations as well as his own had been unable to subscribe to that opinion, and he failed to see how a compromise could be reached if their position, which was reflected in document NG7/39, was disregarded by a group of other delegations.

47. Mr. YANKOV (Bulgaria) said that his delegation fully endorsed the report of the Chairman of Negotiating Group 7. The report objectively reflected the work of the Group. His delegation welcomed the new proposals that had been put forward, and in particular the proposal for the wording of article 297, paragraph 1 (*a*). The proposed new version satisfied the requirements of existing international law concerning the delimitation of State boundaries and could serve as a basis for resolving problems relating to the settlement of maritime boundary disputes. Such problems were highly political and could be solved only by the States concerned through negotiation.

48. Mr. NAPITUPULU (Indonesia) said that it would be difficult for his delegation to accept article 297, paragraph 1 (*a*), as formulated in the negotiating text because it was based on the principle of compulsory and binding settlement of disputes. The formulation suggested by the Chairman of Negotiating Group 7 provided a better basis for futher negotiations on the question.

49. Mr. WANG Tieya (China) said that his delegation's position on the question of the settlement of disputes concerning sea boundary delimitations was quite unambiguous and need not be repeated at the present meeting. At the meeting of the Second Committee on the previous day, his delegation had already commented on the treatment of that question in the report of the Chairman of Negotiating Group 7, and had sug-

[5] *Aegean Sea Continental Shelf, Judgment, I.C.J. Reports 1978*, p. 3.

[6] *Official Records of the United Nations Conference on the Law of Treaties, Documents of the Conference* (United Nations publication, Sales No. E.70.V.5), document A/CONF.39/27.

gested that further consultations on the matter were necessary. For the moment, he wished only to stress that, in his delegation's view, any compulsory and binding third-party settlement of a dispute concerning sea boundary delimitations must have the consent of all parties to the dispute. Otherwise such a form of settlement would not be acceptable to the Chinese delegation.

50. Mr. KWANG-JUNG SONG (Republic of Korea) said that his delegation had already explained why it believed that the text of article 297, paragraph 1 (*a*), should be retained, and why it considered that disputes must be settled in accordance with compulsory procedures. His delegation was, however, prepared to study in depth the proposal made by the Chairman of Negotiating Group 7 in his report.

51. Mr. SALIBA (Malta) said that the opinion expressed by his delegation in the Second Committee on the question of dispute settlement remained unchanged.

The meeting rose at 6.25 p.m.

113th meeting

Thursday, 26 April 1979, at 11.25 a.m.

Chairman: Mr. H.S. AMERASINGHE.

Organization of work

1. The PRESIDENT said that at its 90th meeting the Conference had taken certain decisions on the organization of its work which were recorded in document A/CONF.62/62.[1] Among other matters, the Conference had taken decisions regarding the revision of the informal composite negotiating text[2] that were recorded in paragraphs 9 to 11 of document A/CONF.62/62, which read as follows:

> "9. The plenary should aim at the completion of all substantive discussions for the production of a draft convention at the seventh session. The work programme adopted by the plenary should provide for the revision of the informal composite negotiating text and the discussion of the revised informal composite negotiating text.
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> "10. Any modifications or revisions to be made in the informal composite negotiating text should emerge from the negotiations themselves and should not be introduced on the initiative of any single person, whether it be the President or a chairman of a committee, unless presented to the plenary and found, from the widespread and substantial support prevailing in plenary, to offer a substantially improved prospect of a consensus.
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> "11. The revision of the informal composite negotiating text should be the collective responsibility of the President and the chairmen of the main committees, acting together as a team headed by the President. The Chairman of the Drafting Committee and the Rapporteur-General should be associated with the team as the former should be fully aware of the considerations that determined any revision and the latter should, *ex-officio*, be kept informed of the manner in which the Conference has proceeded at all stages."

2. At its seventh session, the Conference had not been able to realize the objectives which it had set itself in paragraph 9 of document A/CONF.62/62. Accordingly, the results of the session had been embodied in reports by the chairmen of committees and negotiating groups. Moreover, it did not seem possible at the present stage to effect the kind of revision of the negotiating text envisaged in document A/CONF.62/62, where it was clearly contemplated that such a revision should be the final one, to be followed by formalization of the text so that delegations wishing to do so would be free to propose formal amendments.

3. Yet another session had been devoted to negotiations and a modified negotiating procedure had been adopted at the present session in order to ensure greater concentration in an atmosphere that could be more conducive to progress, without depriving delegations which did not participate in that new forum of negotiations of the right to examine and review the results. It was for that reason that those results were to be treated as *ad referendum*.

4. The principle had been stated more than once—and in his opinion it appeared to be universally accepted—that no delegation's position on a particular issue should be treated as irrevocable until at least all the elements of the "package" as contemplated had formed the subject of agreement. Therefore, every delegation had the right to reserve its position on a particular issue until it had received satisfaction on other issues which it considered to be of vital importance to it. That was the only reasonable interpretation that could be given to the idea of a package deal. If the negotiations held so far produced results which would permit a substantial revision of the negotiating text, a revised text could be produced, but it need not be a final version within the meaning of document A/CONF.62/62—it could in effect be a draft preparatory to such a final revision. In that connexion, he suggested that, if the Conference agreed to produce a new document, such a document should preferably be issued under the symbol ICNT/Rev.1 rather than described as a revised informal composite negotiating text.

5. The chairmen of the committees would now proceed to present their reports on the progress made at the present session. It would then be for the plenary to decide how best the results of the negotiations were to be recorded, whether in the form of a revised text or in some other suitable manner. He recommended that the statements made by the chairmen in presenting their reports should be reproduced *in extenso* in the summary record. The actual reports would, of course, form part of the official records of the Conference.

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*)

Report of the Chairman of the Third Committee

6. Mr. YANKOV (Bulgaria), Chairman of the Third Committee, said that the report of the Third Committee had been considered at the Committee's 40th meeting.

7. Since the session of the Conference held at Caracas, the Committee had opted to negotiate fairly in open-ended meet-

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[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. VIII (United Nations publication, Sales No. E.78.V.4).