

## SECOND COMMITTEE

### 57th meeting

Tuesday, 24 April 1979, at 11 a.m.

Chairman: Mr. A. AGUILAR (Venezuela).

#### Reports of the Chairmen of Negotiating Groups 4 and 7

1. The CHAIRMAN said that he had convened a meeting of the Second Committee for the purpose of complying with the procedure set out in document A/CONF.62/62,<sup>1</sup> whereby the results of the work of each negotiating group had to be reported to the Chairman of the appropriate Committee and to the President of the Conference. Once that had been done, there were two possible courses of action: the Chairman of the appropriate Committee might wish first to have his Committee consider the results of the negotiations, or the results could be brought direct to the plenary meeting by the President of the Conference. In the case in question, the first of those two courses had been chosen. The purpose of the exercise was to consider the possible inclusion in the revised informal composite negotiating text of formulations proposed by the chairmen of the negotiating groups.<sup>2</sup>

2. In that connexion, he wished to remind representatives that the documents containing the various formulations, whether or not prepared by a chairman of a negotiating group, were informal documents and did not constitute part of the formal results of the Conference. Consequently, it was not possible to amend them formally or to take decisions on them by a vote. Informal suggestions were, of course, acceptable. At the current stage, the Committee was attempting to assess the degree of support for each suggestion in order to decide whether or not the text in question should be included in the revised negotiating text.

3. Mr. NANDAN (Fiji), Chairman of Negotiating Group 4, said that the Group had held one meeting during the current session. It had become apparent, at that meeting, that there was no point in convening further meetings until intensive consultations had been held on the issues involved.

4. In the course of those consultations, numerous comments had been made on the compromise suggestions contained in document NG4/9/Rev.2<sup>3</sup> and various changes to that text had been suggested. A number of countries had expressed concern regarding certain aspects of the text, and an informal proposal had been submitted by Romania and Yugoslavia (C.2/Informal Meeting/41).

5. It had emerged from the consultations that none of the new suggestions commanded sufficient support in Negotiating Group 4 to justify any substantive change in the compromise suggestions. It appeared, moreover, that the text of the compromise suggestions offered a substantially improved prospect of consensus, by comparison with the existing wording of the

negotiating text. He had thus informed the Negotiating Group that the compromise suggestions would be submitted for inclusion in the revised negotiating text.

6. Mr. HAMOUD (Iraq) said that intensive consultations had taken place in Negotiating Group 4 and a number of suggestions had been made. In his delegation's view, it would have been useful if those consultations could have continued, since the compromise suggestions by the Chairman of the Negotiating Group in document NG4/9/Rev.2 were not supported by all delegations. Although the document in question was perfectly acceptable as a basis for discussion, it was not suitable for inclusion in the revised negotiating text.

7. The CHAIRMAN said that the main purpose of the meeting was to determine whether or not there was substantial support for a given text. It was not necessary that there should be a consensus in favour of the text, but simply an agreement that the new text had a better chance of commanding a consensus than the wording in the negotiating text.

8. Mr. MHLANGA (Zambia) said he regretted that the consultations in Negotiating Group 4 had not proved very fruitful and that no agreement was yet in sight.

9. The compromise suggestions made by the Chairman of Negotiating Group 4 contained some serious weaknesses and, like the wording of the negotiating text, did not take sufficient account of the interests of land-locked and geographically disadvantaged countries.

10. The compromise suggestions were open to criticism in that their version of article 69 referred only to the living resources of the exclusive economic zone, and not to both living and non-living resources. His delegation was also unable to accept the proposal that land-locked and geographically disadvantaged States should have a right only to an appropriate part of the surplus of the living resources of the exclusive economic zones of coastal States, when currently they had equal rights with the coastal States to participate in exploiting the resources of the high seas.

11. Paragraph 2 and other subsequent paragraphs of the proposed text of article 69 referred to the conclusion of bilateral, subregional or regional agreements. If the land-locked and geographically disadvantaged States were merely accorded the right to negotiate with coastal States, that would not be enough, since they were always at a disadvantage in negotiations with coastal States.

12. His delegation had already submitted a proposal for regional or subregional economic zones in which all States of the region or subregion would have equal rights to participate in the exploitation of both living and non-living resources. That proposal, which was contained in document A/CONF.62/C.2/L.97,<sup>4</sup> provided for a fair redistribution of the existing rights of States under the international law of the sea.

<sup>1</sup> 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).

<sup>2</sup> *Ibid.*, vol. VIII (United Nations publication, Sales No. E.78.V.4).

<sup>3</sup> *Ibid.*, vol. X, p. 93.

<sup>4</sup> *Ibid.*, vol. VII (United Nations publication, Sales No. E.78.V.3).

13. In that connexion, he wished to refer to the Report of the Secretary-General<sup>5</sup> which had been presented to the Sea-Bed Committee prior to the convening of the current Conference, and which assessed the economic significance of various proposals. According to that document, a 40-nautical-mile limit would give 59 per cent of available resources to the coastal State and leave 41 per cent in the international area, while a 200-nautical-mile limit would give 87 per cent of available resources to the coastal State, and leave only 13 per cent in the international area. In his delegation's view, those figures constituted ample justification for the introduction of regional zones.

14. Mr. SHARMA (Nepal) said that his delegation still maintained that neither the provisions contained in the negotiating text nor those in the compromise suggestions by the Chairman of Negotiating Group 4 were satisfactory or equitable.

15. The resources of the exclusive economic zone should be shared among mankind as a whole and, in any case, any decisions regarding their distribution should be made by an international organization rather than unilaterally by a coastal State. Consequently, a surplus of the allowable catch was an unfair concept which departed inequitably from existing international law.

16. Article 69 in the compromise suggestions could be improved by replacing the words "appropriate part" in paragraph 1 by the words "substantial part". The reference in paragraph 2 of that article to States which were participating or were entitled to participate in the catch was most unfair to newly independent States which, for historical reasons, had been unable so to participate.

17. He submitted that the compromise suggestions by the Chairman of Negotiating Group 4 did not command sufficiently widespread support for inclusion in the revised negotiating text.

18. Mr. GLIGA (Romania) observed that the compromise suggestions made by the Chairman of Negotiating Group 4 contained an amendment to article 62, paragraph 2. At the previous session, his own delegation, together with that of Yugoslavia, had submitted an informal proposal to amend that article, with the aim of giving priority to the interests of all developing countries. That proposal had not been taken into consideration, and the suggestion made by the Chairman of Negotiating Group 4 had made the text even more unacceptable. For that reason, Romania and Yugoslavia had again submitted a proposal (C.2/Informal Meeting/41) which was designed to avoid discrimination among developing countries and to place all of them on an equal footing with regard to access to the living resources of the sea. The principle of priority for the developing countries, including priority in matters relating to the law of the sea, was generally accepted by the international community. The informal proposal by Romania and Yugoslavia took account of the compromise suggestion made by the Chairman of Negotiating Group 4, since the references to articles 69 and 70 were maintained. The coastal State, in determining its capacity to harvest the living resources of the exclusive economic zone, was to take special account of the interests of the land-locked States and geographically disadvantaged States and, more particularly, of the interests of the developing countries among that group of States. In the French and Russian versions of the informal proposal, the phrase "developing States in particular" should be underlined as it was in the other language versions.

19. With regard to article 70, although the text suggested by the Chairman of Negotiating Group 4 represented progress towards a compromise, his delegation was none the less convinced that it was necessary to find a solution satisfactory to all countries. More especially, it was essential to avoid impairing the interests of geographically disadvantaged developing

countries situated in regions with limited fishing resources—countries which had invested in fishing fleets and would, as things stood, be excluded from the economic zones, whereas highly developed countries would acquire considerable advantages with regard to fishing. It was precisely those countries—i.e., coastal States with large ocean areas—that were invoking acquired rights in the matter of the continental shelf; but rights acquired by other countries, particularly developing countries, were no longer taken into account in discussions on the question of access to living resources. The same legal rules and reasoning must obviously be applied in respect of all countries.

20. He was therefore convinced of the need to find a solution that was equally satisfactory for countries in regions without fishing resources, and particularly for developing countries. In any event, the meaning of the term "region" should be sufficiently wide to cover the interests of all States. His delegation was ready to make every effort to arrive at a generally acceptable text on the subject of access by all countries to the living resources of the sea.

21. Mr. PERIŠIĆ (Yugoslavia) said that his delegation was ready to support any compromise suggestion that would command the support of the majority of States. The mandate of Negotiating Group 4 referred to the right of access of land-locked States and certain developing coastal States in a sub-region or region to the living resources of the exclusive economic zone, or the right of access of land-locked and geographically disadvantaged States to the living resources of the exclusive economic zone. Consequently, his own delegation and that of Romania considered that their informal proposal was fully consistent with that mandate. It was not a proposal for a direct amendment to article 62, paragraph 2, but a proposal to amend the suggestion by the Chairman of Negotiating Group 4.

22. His delegation held the view that, in keeping with the general philosophy of development of the United Nations Conference on Trade and Development, no discrimination should be exercised among developing States. The developing countries were all members of the Group of 77 and it was entirely unacceptable that discrimination should be practised among them from the outset. Nevertheless, his country also felt that special account should be taken of the interests of land-locked States and States with special geographical characteristics—in other words, the States referred to in articles 69 and 70.

23. Mr. AL-MOR (United Arab Emirates) said that the concept underlying the report of the Chairman of Negotiating Group 4 was unsatisfactory. Unfortunately, the Group had held only one meeting during the session. The Arab Gulf States—namely, Iraq, Bahrain, Kuwait, Qatar and the United Arab Emirates—had adopted a unified position in view of their special geographical situation, which called for a change in the text proposed by the Chairman of Negotiating Group 4. They had not wished to raise the matter within the Group itself and had preferred to consult the Chairman. Accordingly, they had submitted to him a reasonable and balanced proposal that would be acceptable to coastal States. However, the ocean States, which appeared to be trying to direct the affairs of the Conference in an arbitrary manner, had rejected all proposals and had informed the Chairman of the Group that the proposal by the Arab Gulf States was unacceptable.

24. That proposal was not only reasonable but even inevitable, since it was inconceivable that the interests of some countries should not be taken into consideration. Consequently, the Arab Gulf States had hoped that, in his report, the Chairman of the Group would take account of the proposal in question and thus furnish proof that the Conference was indeed paying attention to the legitimate interests of countries. The aim should be to arrive at a text which commanded wide support and offered the prospects of a consensus. In the opinion

<sup>5</sup> A/AC.138/87.

of his delegation, the suggestions made by the Chairman could not open the way to a genuine consensus.

25. The CHAIRMAN suggested that the Committee should defer further consideration of the report of the Chairman of Negotiating Group 4, and should now hear the report of the Chairman of Negotiating Group 7, who was obliged to leave Geneva shortly.

*It was so agreed.*

26. Mr. MANNER (Finland), Chairman of Negotiating Group 7, said that the Group had been established, in accordance with the decisions taken at the 90th plenary meeting, on 13 April 1978, and appearing in document A/CONF.62/62, to deal with the hard-core issue of delimitation of maritime boundaries between adjacent and opposite States and settlement of disputes thereon. Accordingly, the Group had considered articles 15, 74, 83 and 297, paragraph 1 (a). In its work, the Group had had to take into account the fact that for the possible modification or revision of the negotiating text the only solutions that could be suggested, as a result of the Group's deliberations, were those which could be found to offer a substantially improved prospect of a consensus. During the seventh and eighth sessions of the Conference, the Group had held a total of 41 meetings, with 39 working documents being distributed in the course of its discussions. As stated in his report of 17 May 1978 (NG7/21), there seemed to be widespread support for the retention of the present formulation of article 15, with two drafting amendments. Accordingly, the text would read as follows:

"Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The above provision does not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance therewith."

27. From the outset, the negotiations on paragraph 1 of article 74 and of article 83 had been characterized by the opposing positions of delegations supporting the equidistance rule and those specifically emphasizing delimitation in accordance with equitable principles.

28. At the end of the seventh session he had stated (NG7/24)<sup>6</sup> that, during the discussions, general understanding had seemed to emerge to the effect that, in broad terms, the final solution could contain four elements: a reference to the effect that any measure of delimitation should be effected by agreement, a reference to the effect that all relevant or special circumstances were to be taken into account in the process of delimitation, a reference, in some form, to equity or equitable principles, and a reference, in some form, to the median or equidistance line.

29. That scheme had also been referred to in his statement at the beginning of the current session (NG7/26), when he had expressed the view that the necessary compromise might be within reach if the Group could agree upon a neutral formula avoiding any classification or hierarchy of the elements concerned. During the current session, a number of compromise proposals had been made, more particularly by the delegations of Mexico and Peru. At least one of them, that contained in document NG7/36, had received a fair amount of interest as a possible basis for further negotiations. However, the proposal, as well as a revised version thereof (NG7/36/Rev.1), had later been withdrawn by its sponsors.

30. Despite intensive negotiations, the Group had not succeeded in reaching agreement on any of the texts before it. The reasons why the various compromise efforts made during the Group's work had not succeeded had been clearly voiced by different delegations. He would not, of course, criticize those reasons, which were very important to the respective delegations, but he doubted whether, in view of the Group's lengthy deliberations and the controversies still prevailing, the Conference would ever be in a position to produce a provision that would offer a precise and definite answer to the question of delimitation criteria.

31. In the light of the various suggestions presented and assuming that, in one form or another, negotiations on the issue of delimitation were to be continued at the next stage of the Conference, he wished, as a possible basis for a compromise, to suggest the following text:

"The delimitation of the exclusive economic zone (or of the continental shelf) between States with opposite or adjacent coasts shall be effected by agreement between the parties concerned, taking into account all relevant criteria and special circumstances in order to arrive at a solution in accordance with equitable principles, applying the equidistance rule or such other means as are appropriate in each specific case."

32. As pointed out in his statement at the beginning of the session, with regard to paragraph 3 of article 74 and of article 83, the question of a rule on interim measures to be applied pending final delimitation had been approached from different angles. Some delegations had not considered such a provision necessary at all. Others had advocated inclusion of provisions obliging or encouraging parties having a delimitation problem, to agree on provisional arrangements pending final delimitation. A number of delegations had also found it necessary to suggest prohibitive rules against arbitrary exploitation of natural resources or other unilateral measures within the disputed area.

33. In addition to earlier proposals, several new formulations had been introduced at the current session. In that regard, the main interest had been accorded to the proposal by India, Iraq and Morocco (NG7/32), as well as the proposal by the Chair (NG7/38) presented after consultations in a private group composed of those three delegations and the delegations of the Union of Soviet Socialist Republics and the Ukrainian Soviet Socialist Republic.

34. Although those proposals had seemed to signify a step forward in the search for a compromise, they had not gained such widespread and substantial support as would justify a revision of the negotiating text. In view of the comments made, it seemed that the most serious difficulty relating to those proposals concerned the prohibitive references therein to activities or measures potentially to be taken during the transitional period. A number of delegations had criticized the proposals for introducing what they had felt to be a moratorium arguably prohibiting any economic activities in the disputed area.

35. In order to facilitate further discussions on the paragraph in question, he proposed the following text, based upon his previous compromise suggestion:

"Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and co-operation, shall make every effort with a view to entering into provisional arrangements. Accordingly, during this transitional period, they shall refrain from aggravating the situation or hampering in any way the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation."

36. With regard to article 74, paragraph 4, it seemed that, as stated in his report of 17 May 1978, the placing in the convention of the definition of the median or equidistance line, if such

<sup>6</sup> *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. 170.

a definition were deemed to be necessary, could be left for consideration in the Drafting Committee.

37. With regard to article 74, paragraph 5, and potentially article 83, paragraph 4, as well, a proposal had been made that the word "all" should be added before the word "questions", but no conclusion had been reached on that point.

38. The discussions on the settlement of maritime boundary disputes had been characterized by opposing arguments on the nature of settlement procedures.

39. During the seventh session, a paper (NG7/20) containing a set of alternative approaches relating to article 297, paragraph 1(a), had been issued as a result of discussions held within an expert group led by Mr. L. B. Sohn (United States of America). The paper had subsequently been revised by Mr. Sohn (NG7/20/Rev.1) who had later presented an extensive survey (NG7/27) of various combinations of the main elements potentially to be taken into account in the consideration of the settlement of delimitation disputes. In order to narrow the ground for reaching the final compromise, Mr. Sohn had further presented a paper (NG7/37) containing four alternative basic choices for treatment of maritime boundary disputes. The tireless efforts of Mr. Sohn had contributed greatly to the work of the Group.

40. Despite lengthy discussions, the Group had not been able to solve that issue, which therefore remained open. At the beginning of the session he had expressed the view that there did not seem to be much prospect of finding the sought-after compromise on the basis of a rule which, in one form or another, would provide for the acceptance of a compulsory procedure entailing a binding decision. The discussions held during the current session had left him with the impression that no change had taken place in that regard. Although it was abundantly clear that several delegations still remained determined to advocate compulsory and binding procedures, it seemed equally clear that a consensus based on such a solution might not materialize.

41. As an alternative which perhaps could, in future consideration, prove conducive to the final compromise, he wished to offer the following formulation for article 297, paragraph 1(a), borrowing elements in particular from Mr. Sohn's papers, the proposal made by Israel contained in document NG7/30, and the proposal made by Bulgaria contained in document NG7/5:

"Disputes concerning sea boundary delimitations between States with opposite or adjacent coasts, or those involving historic bays or titles, provided that the State having made such a declaration shall, when thereafter such dispute arises and where no agreement within a reasonable period of time is reached in negotiations between the parties, at the request of any party to the dispute, and notwithstanding article 284, paragraph 3, accept submission of the dispute to the conciliation procedure provided for in annex IV, and provided further that such procedure shall exclude the determination of any claim to sovereignty or other rights with respect to continental or insular land territory.

"After the Conciliation Commission has presented its report, the parties shall negotiate an agreement on the basis of that report. If these negotiations do not result in an agreement within a period of . . . from the date of the Commission's report, the parties to the dispute shall, by mutual consent, submit the question to the procedures provided for in part XV, section 2, unless the parties otherwise agree."

42. On submitting that suggestion, he was well aware that it did not fully correspond to the established positions of many delegations, including those which had considered that the conciliation procedure should only relate to basic questions outstanding between the parties with respect to the specific circumstances, principles or methods which were to be con-

sidered by the parties concerned in resolving the issue in dispute. In his understanding, however, the suggestion might reflect a realistic view of the actual situation.

43. In that connexion it should also be pointed out that proposals had been made for the modification of the introduction to article 297 and for the deletion of article 74, paragraph 2, with possible deletion of the corresponding paragraph of article 83 as well. No conclusions had been reached on those points.

44. It was to be concluded that, except for the two drafting amendments to article 15, none of the proposals made during the work of the Group for the modification or revision of the negotiating text had secured a consensus within the Group or seemed to offer a substantially improved prospect of a consensus in the plenary meeting. Accordingly, apart from the changes to article 15, he was not in a position to suggest any modification or revision of the text to be made on the basis of the work of Negotiating Group 7.

45. On the other hand, and without prejudice to the organizational pattern of future work, it was his understanding that there was a general feeling in the Group that negotiations on the issues still pending solution should be continued. That feeling was strengthened by the positive attitude of several delegations, particularly during the final stage of the negotiations. In that connexion, it might also be recalled that it had been repeatedly pointed out by many delegations that the issues concerned were closely interrelated and should be considered together as elements of a "package" in the future.

46. Last but not least, he wished to express his thanks to the members of the secretariat for all their valuable help and assistance during the past year.

47. The CHAIRMAN said that, on behalf of the Committee, he wished to congratulate the Chairman of Negotiating Group 7 for the work undertaken on difficult and controversial issues and also to thank Mr. Sohn for his co-operation in the work of the Group.

48. Mr. ZEGERS (Chile) said that the progress made in the difficult task of Negotiating Group 7 was not sufficient to lead to a revision of the negotiating text, but it might well do so at the next stage of the Conference. He welcomed the consensus on the territorial sea, as formulated in article 15, and also that reached on the four elements for a substantive rule on the delimitation of the economic zone and the continental shelf. It was also encouraging to learn that a consensus appeared to be emerging with regard to a neutral formula leading to a compromise between those who advocated the equidistance line and those who advocated equitable principles. The formulation suggested by the Chairman of the Group reflected the discussions within the Group, called for close attention and, so far as his own delegation was concerned, constituted a worthwhile basis for negotiation.

49. The negotiating text envisaged a compulsory system of settlement of disputes that had commanded the support of an ample majority which had also expressed its views in the Negotiating Group. Admittedly a fairly large minority had voiced objections to such a system and Mr. Sohn had suggested alternative solutions. The Chairman of the Group, however, was now suggesting a system of compulsory conciliation which would deal only with future disputes. Moreover, the compulsory nature of the conciliation was relative, because it was stated that the parties would be allowed "a reasonable period of time" to reach agreement and no specific time-limit for reaching agreement was fixed. Again, the system did not cover disputes pertaining to territories or islands. The text proposed by the Chairman of the Group was not consistent with the opinion of the majority of the Conference or of the majority of the members of the Group itself; nor was it in keeping with three of the four formulations proposed by Mr. Sohn. The Chairman of the Group, doubtless with the best of

intentions, had exceeded his terms of reference and had failed to reflect the trends of opinion in the Conference. Consequently, his delegation regretted the inclusion in the report of the Chairman of the Group of the text relating to article 297, paragraph 1 (a), and considered that it should be regarded as non-existent for the purposes of future negotiations. He none the less wished to express his appreciation of the work undertaken by the Chairman and of the report as a whole.

50. Mr. ROSENNE (Israel) said that, in the opinion of his delegation, the question of the settlement of disputes should not be allowed to complicate the already difficult matter of delimitation, and that the terms of reference of Negotiating Group 7 should be suitably modified. His delegation saw no inherent difference between disputes over land frontiers and disputes over maritime boundaries. The disputes were about the spaces over which sovereignty or sovereign rights could be exercised. The International Court of Justice had recently stated in the Aegean Sea Continental Shelf Case<sup>7</sup> that maritime boundaries were excluded from the doctrine of *rebus sic stantibus* just as much as were land boundaries. His delegation had the strongest reservations about that statement, but it had to be taken into account since it was now established jurisprudence.

51. His delegation had suggested that the rule in articles 74 and 83 would be better if couched in the language of a residual rule which would come into operation in the absence of agreement, and it had proposed a text for such a residual rule (NG7/28). In the course of the discussions, it had withdrawn that proposal in favour of the proposal in document NG7/36 (but not in favour of the proposal in document NG7/36/Rev. 1); but it now formally requested that the text of the proposed residual rule should be reproduced as a foot-note in the summary record of the meeting or otherwise included in the records of the Conference.<sup>8</sup> It could accept the Chairman's suggestions regarding paragraph 1 of article 74 and of article 83 as a possible basis for compromise, subject to some adjustments in the order in which the elements were placed, but would reinstate its draft residual rule as an alternative basis for a compromise. It agreed that the rule should always encourage delimitation by agreement but did not think it necessarily followed that, in the absence of agreement, a dispute arose to which part XV of the convention would be applicable. For that reason, paragraph 2 of the two articles seemed incorrect and unacceptable. There was no need for any interim rule which might well do more harm than good.

52. His delegation agreed with the Chairman that the placing of the definition of the median and equidistance line could be left to the Drafting Committee, which would also keep in mind that the term was at present also defined in article 15.

<sup>7</sup> *Aegean Sea Continental Shelf, Judgment, I.C.J. Reports, 1978, p. 3.*

<sup>8</sup> The informal working paper submitted by Israel (NG7/28) reads as follows:

"Article 74

"Title: reserved

"1. Failing agreement between the parties to the contrary,  
or  
In the absence of agreement,  
or

Unless otherwise agreed,  
the delimitation of the exclusive economic zone between States whose coasts are opposite or adjacent to each other shall be based on equitable principles taking into account the median or equidistance line and all other special circumstances.

"2. Where there is an agreement in force between the States concerned, all questions relating to the delimitation of the exclusive economic zone shall be determined in accordance with the provisions of that agreement (see NG7/10 and Add. 1, para. 4).

"3. Omit article 74, paragraphs 2 and 3, of the informal composite negotiating text.

"4. This proposal does not necessarily relate to article 83, but could be extended to it if that is the general desire."

53. It would be advisable to include the word "all" before the word "questions" in articles 74, paragraph 5, and 83, paragraph 4. All the terms of delimitation agreements between two or more States, including their provisions regarding the settlement of disputes, should be given absolute priority over the convention and the insertion of the word "all" would remove all doubts on that score.

54. His delegation could not accept article 297, paragraph (1) (a), in the form in which it was drafted. It would be prepared to consider some form of compulsory recourse to non-binding conciliation for future disputes only and had submitted a concrete suggestion in document NG7/30, to which the Chairman of Negotiating Group 7 had referred in his report; but the Chairman's own proposal did not make it sufficiently clear that it related only to disputes arising after the entry into force of the convention between the parties to the dispute. In the view of his delegation, that limitation must be clearly enunciated.

55. In conclusion, he said that the introduction to article 297 should be brought into line with the new introduction to article 296.

56. Mr. LACLETA (Spain), speaking as the co-ordinator of the group of countries which had sponsored document NG7/2, said that those countries agreed with the conclusion of the Chairman of Negotiating Group 7 that none of the proposals made during the work of the Group for the modification or revision of the negotiating text had secured a consensus within the Group. They also agreed that there was a general feeling in the Group that negotiations on the issues still pending solution should be continued. It should be noted that the three issues still awaiting solution, namely, delimitation criteria, interim measures and the settlement of disputes, were closely interrelated.

57. In his comments on the discussions on delimitation criteria, the Chairman had singled out the proposal put forward by the delegations of Mexico and Peru (NG7/36) as one in which much interest had been expressed. In that connexion, he wished to draw attention to the fact that the sponsors of document NG7/2 had been unable to support the proposal in document NG7/36. They were, however, prepared to consider carefully the new text on the question proposed by the Chairman.

58. The paragraphs of the Chairman's report devoted to the question of interim measures did not fully reflect all aspects of the discussion on the question. The sponsors of document NG7/2 had proposed a system whereby a delimitation line could be established. The proposal put forward by the delegations of India, Iraq and Morocco (NG7/32) differed radically from that in document NG7/2, and acceptance of it would imply a fundamental change in the structure of the delimitation mechanism described in document NG7/2. Nevertheless, the substance of the formulation proposed by the Chairman merited attention. It must be borne in mind, however, that the question of interim measures could not be separated from the questions of delimitation criteria and the settlement of disputes.

59. The Chairman's report did not accurately reflect the discussions of the Group on the question of settlement of disputes. The great majority of States still advocated compulsory and binding procedures. It was not correct, therefore, to state merely that several delegations advocated such procedures. The formulation suggested in the report as a compromise was absolutely unilateral.

60. In conclusion, he said that the sponsors of document NG7/2 considered that the Negotiating Group should continue its endeavours to find solutions to the problems before it. They agreed with the conclusions reached by the Chairman of the Group in his report.

61. Mr. SONG (Republic of Korea) said that Negotiating Group 7 must continue its efforts to find solutions to the difficult problems that had been referred to it by the Conference.

62. His delegation felt that the proposal by the Chairman of the Group on delimitation might not be acceptable to the Group; it hoped, therefore, that that proposal would be improved so as better to reflect the position of the Group.

63. In conclusion, he said that his delegation supported the Chairman's report.

64. Mr. POP (Romania) said that his delegation could not agree with the Chairman's proposal that the equidistance line should be regarded as a rule of law with privileged status. It was convinced that a basis for a compromise text could be found in articles 74 and 83, in document NG7/10 and Add. 1 and probably in the first proposal of the delegations of Mexico and Peru (NG7/36), as amended on a proposal made by the delegation of the USSR.

65. The Chairman's suggestion concerning interim measures might be satisfactory; his delegation would examine that suggestion in a spirit of compromise.

66. Mr. CASTAÑEDA (Mexico) said that, in general, his delegation could support the Chairman's report and the conclusions he had reached.

67. Mr. YOLGA (Turkey) expressed the hope that, at the next stage of the Conference, more time would be available for discussion of the important questions of the régime of islands and semi-enclosed seas.

68. Observing that the representative of Chile had expressed satisfaction at the inclusion in the report of a reference to a neutral formula for the criteria governing delimitation, he said that his delegation and the group of 29 were firmly opposed to such a formula.

69. In the opinion of his delegation, the wording of paragraph 1 of articles 74 and 83 should be examined in much greater depth.

70. His delegation fully agreed with the opinions expressed by the representative of Israel on article 297, paragraph 1.

71. Mr. CLINGAN (United States of America) said that his delegation agreed with the Chairman's conclusion that there had been no consensus on any changes other than the drafting amendments to article 15. In its view, therefore, it would not be possible to hope for a revision of the negotiating text on any of the remaining points under discussion.

72. The Chairman had also made three draft proposals of his own, which he had characterized as containing elements conducive to a compromise. Having listened attentively to all the debates in the Group, his delegation was not able to agree that those, or any other proposals that had been placed before the Group, offered any reasonable hope of achieving a consensus at the time. It considered, therefore, that it was premature to attempt to predict where any final outcome might lie. Much work remained to be done before such an effort might prove productive. For that reason, his delegation concluded that it could not accept the texts set forth in the Chairman's report as a basis for a compromise.

73. Mr. SAMPER (Colombia) said that, despite his endeavours, the Chairman of Negotiating Group 7 had not

succeeded in producing a balanced report. The three questions dealt with in the report—delimitation criteria, interim measures and the settlement of disputes—constituted a package deal. There was a link between the three issues which could not be broken. His delegation shared the opinions expressed by the representatives of Spain and Chile on the question of delimitation criteria; it considered, nevertheless, that the text proposed by the Chairman represented a step towards consensus.

74. The compromise text on interim measures suggested by the Chairman represented no improvement on the negotiating text.

75. Turning to the question of the settlement of disputes, he said that article 297 could not be changed except by consensus. The discussions on that article had not been accurately reflected in the report. There was an obvious difference between the Chairman's conclusions on delimitation criteria and interim measures and his conclusions on the settlement of disputes. His delegation agreed with the Chairman's statement that he was not in a position to suggest any modification or revision of the negotiating text on the basis of the work of Negotiating Group 7. It also agreed that negotiations on the issues still pending should be continued.

76. Mr. SYMONIDES (Poland) said that, on the understanding that the Committee's task was to evaluate the results achieved in the negotiating groups rather than to continue the debate, his delegation could support the conclusion of the Chairman of Negotiating Group 7 that none of the proposals concerning paragraphs 1, 2 and 3 of articles 74 and 83 could be included in the revised negotiating text. It agreed that certain proposals, particularly that submitted by the delegations of Mexico and Peru (NG7/36), as amended by the USSR, and that put forward by the delegations of India, Iraq and Morocco (NG7/32), had received such a degree of support that they could be regarded as possible bases for further negotiations.

77. His delegation was firmly convinced that negotiations on delimitation should be continued during the second part of the session. The suggestion made by the Chairman on that matter might prove most helpful.

78. Mr. HAYES (Ireland), speaking as co-ordinator of the sponsors of document NG7/10 and Add. 1, endorsed the comments made by the representative of Romania on paragraph 1 of article 74 and of article 83.

79. He agreed with the representative of Turkey that no consensus had been reached in Negotiating Group 7 on the Chairman's suggestion for a neutral formula: the sponsors of document NG/10 and Add. 1 rejected that suggestion.

80. Mr. NASINOVSKY (Union of Soviet Socialist Republics) said that the Chairman's proposals on delimitation, interim measures and the settlement of disputes could constitute a satisfactory basis for a compromise solution on those issues. He stressed that the majority of the members of the Group had endeavoured to find solutions acceptable to all delegations. Looked at from that point of view, the report under discussion was a valuable contribution to the success of the Conference.

*The meeting rose at 1.15 p.m.*