

DOCUMENTS OF THE THIRD COMMITTEE

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Report by the Chairman of the Third Committee

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Results of negotiations on Part XIII of the revised informal composite negotiating text during the resumed eighth session

1. Following the pattern of the negotiating process established during the previous sessions, I have the honour to submit for your consideration the report on the work of the Third Committee. It contains my personal assessment of the results of the negotiations during the resumed eighth session on those issues which were left pending after the conclusion of our work at Geneva. Faithful to the established practice, I tried to involve in the negotiations all interested delegations and to provide the membership of the Committee with the opportunity to express their views and to have them reflected in the final outcome.

2. We started our work in the resumed eighth session and this fact alone not only conveyed a sense of urgency in our work but also brought pressure upon all of us and called for greater mobilization of our efforts in order to pave the way for further advancement in our endeavours.

3. As I had the opportunity to recall, the first part of this session was marked with an outstanding achievement which was the successful completion of the consideration of Part XII (Protection and preservation of the marine environment) and Part XIV (Development and transfer of marine technology) of the informal composite negotiating text. These positive results have already been reflected in the revised text and have broadened the area of agreement, which could indeed offer a substantially improved prospect for consensus within the Conference as a whole. I am glad to reiterate this assessment made in this Committee and endorsed by the plenary Conference in April this year.

4. At this resumed session, our efforts were directed to the consideration of the pending substantive issues relating to the régime for the conduct of marine scientific research on the continental shelf beyond 200 miles from the baselines from which the breadth of the territorial sea is measured, as well as the problem of the settlement of disputes relating to the interpretation or implementation of the provisions of the convention with regard to marine scientific research.

5. There were some other substantive issues still pending, such as the facilities with regard to access of research vessels to the harbours of the coastal State and assistance to be rendered to such vessels conducting marine scientific research activities; the requirement for making the research results internationally available through appropriate national or international channels; conditions for cessation or suspension of marine scientific research activities; assistance or co-operation in providing the research vessels with information necessary to prevent and control damage to the health and safety of persons, or to the marine environment; the modalities under which marine scientific research projects could be undertaken under the auspices of an international organization etc. Informal proposals on most of these issues are contained in documents MSR/2/Rev.1, MSR/3, MSR/4 and MSR/5. At the last moment, a new proposal was submit-

ted which sought to amend some of the provisions contained in article 254 relating to the right of neighbouring land-locked and geographically disadvantaged States.

6. During this resumed session, the Committee held six informal meetings. Owing to the nature of key issues still pending relating to the conduct of marine scientific research, I felt that more informal consultations were needed with the delegations directly concerned. At the informal meetings of the Committee and in the informal consultations, we heard over 270 statements and this fact alone is an indication of the intensive negotiations that took place.

7. As you might recall, during the first part of the eighth session at Geneva as well as at the previous sessions, we proceeded to the consideration of the specific amendments article by article. At this resumed session, we combined this method of work with an issue-oriented approach. New texts were presented and discussed at the informal meetings of the Committee and in the consultations.

8. During these intensive negotiations, some compromise formulae have emerged which, in my personal assessment, have a substantial degree of support as to provide a reasonable prospect for consensus. These compromise provisions are the following:

Article 242

Add the following sentence at the end of the paragraph:

“In this context, without prejudice to the rights and duties of States under the present Convention, a State in the application of the present Part shall provide, when appropriate, other States with a reasonable opportunity to obtain from it, or with its co-operation, information necessary to prevent and control damage to the health and safety of persons and the environment.”

Article 246 bis

For the purposes of article 246:

(a) The absence of diplomatic relations between the coastal State and the researching State does not necessarily mean that normal circumstances do not exist between them for purposes of applying article 246, paragraph 3;

(b) The exercise by the coastal State of its discretion under article 246, paragraph 4 (a), shall be deferred and its consent shall be implied with respect to marine scientific research projects undertaken outside specific areas of the continental shelf beyond 200 miles, from the baselines from which the breadth of the territorial sea is measured, which the coastal State has publicly designated as areas in which exploitation or exploratory operations, such as exploratory drilling, are occurring or are about to occur;

(c) The coastal State shall give reasonable notice of such areas.

Article 247

In line 1, after “global” add “intergovernmental”.

Article 249

Redraft paragraph 1 (*d*) to read:

“(d) If requested, provide the coastal State with an assessment of such data, samples, and research results or assist in their interpretation;”.

In paragraph 1 (*e*), delete “subject to paragraph 2”.

Redraft paragraph 2 to read:

“2. The present article is without prejudice to the conditions established by the laws and regulations of the coastal State for the exercise of its discretion to grant or withhold consent pursuant to article 246, paragraph 4, including requiring prior agreement for making internationally available the research results of a project of direct significance for the exploration or exploitation of natural resources.

Article 253

Redraft the title to read:

“Suspension or cessation of research activities.”

In paragraph 1, before “cessation” insert “suspension or”.

Redraft paragraph 1 (*a*) to read:

“(a) The research activities are not being conducted in accordance with the information communicated as provided for under article 248 upon which the consent of the coastal State was based and compliance is not secured within a reasonable period of time;”.

Add a new paragraph 2:

“2. The coastal State may require cessation of research activities if the conditions provided for in paragraph 1 are not complied with within a reasonable period of time after suspension has been invoked, subject to any proceedings which may have been instituted pursuant to section 2 of Part XV.”

Article 255

States shall endeavour to adopt reasonable rules, regulations and procedures to promote and facilitate marine sci-

entific research activities beyond their territorial sea and, as appropriate, to facilitate, subject to the provisions of their internal law, access to their harbours and promote assistance for marine scientific research vessels, which comply with the relevant provisions of the present Part.

Article 264

Add a new paragraph 2:

“2. Disputes arising from an allegation by the researching State that, with respect to a specific project, the coastal State is not exercising its right under articles 246 and 253 in a manner compatible with the provisions of the present Convention shall be submitted, at the request of either party and notwithstanding article 284, paragraph 3, to the conciliation procedure described in annex IV, provided that the Conciliation Commission shall not call in question the exercise of the discretion to withhold consent in accordance with article 246, paragraph 4.”

9. In conclusion, I wish to express my view that we have made significant progress and have broadened the basis for a reasonable compromise which could offer a substantially improved prospect for a consensus. I further believe that if the above-mentioned formulae receive broad support, this Committee then may consider that the substantive negotiations within its terms of reference are concluded and that the work of this Committee has been completed at this stage. I therefore earnestly hope that these results will constitute a very important contribution of the Third Committee to the positive final outcome of this Conference.

10. Finally, I should like to express my gratitude and appreciation to all members of the Committee for their untiring efforts and understanding which made the spirit of compromise prevail throughout our work over the many years. I wish also to express my most sincere thanks and appreciation to the members of the secretariat for their dedication, competence and most valuable assistance rendered to the Committee and to me personally in the discharge of the work of the Committee.