

Third United Nations Conference on the Law of the Sea

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-

A/CONF.62/SR.182

182nd Plenary meeting

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume XVI (Summary Records, Plenary, First and Second Committees, as well as Documents of the Conference, Eleventh Session)*

8. The PRESIDENT said that he had to inform the Group of 77 and all other members of the Conference that he had prior to the meeting received a letter from the head of the United States delegation, which read as follows: "In view of the outstanding difficulties we have with the emerging package, I respectfully request that it be put to a recorded vote by roll call."

9. Mr. de SOTO (Peru) said that, in the light of that letter, he took it that there would be no alternative to the adoption of the convention by vote. Invoking rule 31 of the rules of procedure, he asked the President to adjourn the meeting in order to allow the Group of 77 time to hold further discussions before the next meeting of the Conference.

10. Mr. BEESLEY (Canada) said that the countries known as the group of 11 had tried in document A/CONF.62/L.104 to provide a basis for discussion which might lead to a consensus. Even at so late a stage, he wished to commend the proposals contained in that document to the United States and the Group of 77.

11. Mr. ROSENNE (Israel) said that in view of the latest turn of events, notably the letter from the head of the United States delegation, he wished to inform the Conference that when the time came his delegation would probably request a separate recorded vote on draft resolution IV.

12. Mr. MALONE (United States of America) said that he had listened with interest to the Canadian representative and thought that the proposals to which he had referred should receive careful consideration.

13. The PRESIDENT said that he wished that the United States and other delegations had taken a more favourable attitude to the work of the group of 11 a few weeks earlier, when he and the Chairman of the First Committee had tried in vain to encourage negotiations based on document A/CONF.62/L.104. Appealing to the Group of 77 to complete its discussions before the appointed time for the next meeting, he proposed that the meeting should be adjourned.

It was so decided.

14. Mr. de SOTO (Peru) said that the Group of 77 had no wish to delay the Conference's final decision. The hour had struck, and, as the President had said in his statement on the previous day, the Conference had a rendezvous with history. With reference to the statements he had just heard, he said that it was probably too late to revive the possibility of saving what was perhaps already beyond salvation by the introduction of loopholes or subtle innuendoes.

The meeting rose at 12.10 p.m.

182nd meeting

Friday, 30 April 1982, at 3.20 p.m.

President: Mr. T. T. B. KOH (Singapore)

Report of the President in accordance with rule 37 of the rules of procedure (concluded)

Report of the President on informal consultations conducted on 27 and 28 April (concluded)

1. The PRESIDENT proposed that the two items, which related to the amendments to the draft convention proposed in documents A/CONF.62/L.132 should be considered together.

It was so decided

2. Mr. ROSENNE (Israel), speaking on a point of order, asked that a separate vote should be taken on draft resolution IV contained in annex I in document A/CONF.62/L.132.

3. The PRESIDENT said that it had been decided that all the proposals in the documents he had mentioned should be considered together.

4. Mr. ROSENNE (Israel), speaking on a point of order, said that, on the instructions of his Government, he had to appeal, in accordance with rule 25 of the rules of procedure of the Conference, against the ruling announced by the President.

5. Mr. KOZYREV (Union of Soviet Socialist Republics), raising a point of order, asked for an explanation, before the appeal against the President's ruling was put to the vote, of why the President had included in his proposals paragraphs on which agreement had not yet been reached, particularly annex IV, paragraph 1 (a), and annex V of document A/CONF.62/L.132. The status of that document was not, in his view, the same as that of others submitted on the basis of prior agreement.

6. Mr. de SOTO (Peru), speaking on a point of order on behalf of the Group of 77, said that the two questions before the Conference—Israel's appeal against the President's ruling and the inclusion of document A/CONF.62/L.132 among the proposals to be submitted for decision by the Conference—would have to be dealt with separately.

At the request of the representative of Israel, a recorded vote was taken on his appeal under rule 25 of the rules of procedure.

In favour: Israel.

Against: Afghanistan, Albania, Algeria, Angola, Argentina, Australia, Bahamas, Bahrain, Bangladesh, Barbados, Belgium, Benin, Bhutan, Bolivia, Botswana, Brazil, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Congo, Cuba, Cyprus, Czechoslovakia, Democratic Kampuchea, Democratic People's Republic of Korea, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Finland, France, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Italy, Holy See, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San

Marino, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Singapore, Somalia, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Cameroon, United Republic of Tanzania, Upper Volta, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe.

Abstaining: Austria, Turkey.

The appeal by Israel was rejected by 143 votes to 1, with 2 abstentions.¹

7. The PRESIDENT announced that his ruling that no separate votes would be taken would apply in all cases.

8. Mr. ROSENNE (Israel) said, in explanation of vote, that history had shown that at times even a minority of one could be in the right. His delegation had invariably opposed the granting of any rights to the so-called Palestine Liberation Organization. It also objected to the provisions of articles 140, 156, 160, 162 and 319 of the draft convention and believed that the right course would have been to have each of those provisions voted on separately. It had, however, decided to express its objections in formal statements. Annex I of document A/CONF.62/L.132 had no bearing on the Law of the Sea and dealt with a political matter extraneous to the Conference.

9. The PRESIDENT asked the representative of Israel to refrain from referring to the substance of annex I until such time as the President's recommendations on the proposals in the addenda to his reports were put before the Conference.

10. Mr. KOZYREV (Union of Soviet Socialist Republics) asked when amendments to documents A/CONF.62/L.132 and L.141 could be submitted; there had as yet been no opportunity to do so.

11. The PRESIDENT pointed out that the Conference had instructed him to do everything possible to achieve general agreement and, to that end, to submit any necessary proposals. As a result of the intensive negotiations, in which the Soviet delegation had participated, he had submitted to the Conference the proposals in documents A/CONF.62/L.132 and L.141. In his view, those proposals should be incorporated in documents A/CONF.62/L.78, L.93 and L.94 with a view to reaching general agreement.

12. Mr. KOZYREV (Union of Soviet Socialist Republics) asked whether document A/CONF.62/L.132 was in the same situation as documents A/CONF.62/L.78, L.93 and L.94.

13. The PRESIDENT replied that document A/CONF.62/L.132 would be in the same situation as the others when delegations decided to incorporate it in them. If there were no objections, he would take it that the Conference decided to incorporate the proposals in documents A/CONF.62/L.132 and L.141, and in documents A/CONF.62/L.78,² L.93 and L.94.

It was so decided.

14. Mr. KIRCA (Turkey) explained that he had abstained in the vote against the President's ruling because he believed that the various elements of the draft convention should have been taken up and voted on separately. In any event, if draft resolution IV contained in annex I of document

A/CONF.62/L.132 had been put to a separate vote, his delegation would have voted in favour.

15. Mr. KOZYREV (Union of Soviet Socialist Republics), speaking in explanation of his vote, recalled that the Soviet delegation had consistently opposed draft resolution II concerning preparatory investments, the text of which had not been discussed at the plenary meeting. If draft resolution II had been put to a separate vote, his delegation would have voted against it.

Reports of the Chairman of the Drafting Committee

16. Mr. BEESLEY (Canada), speaking as Chairman of the Drafting Committee, said that, during the second part of the eleventh session of the Conference, the Drafting Committee had continued its discussion of the text of the draft convention article by article. During that period, the language groups of the Drafting Committee had held 293 meetings, the co-ordinators of the language groups 17 meetings and the Drafting Committee six meetings. From 2 April onwards, the Drafting Committee had given priority to the discussion of documents A/CONF.62/L.93 and L.94 and had submitted recommendations on draft resolutions I and III and articles 60, 156, 164, 194, 201, 204, 207, 209, 211, 212, 213, 214, 216, 217, 222, 242, 305, 306, 307, 308 and 319 (A/CONF.62/L.142/Add.1).

17. The co-ordinators of the language groups had submitted various proposals concerning articles 1, 2, 3 and 4 of annex III of the draft convention. The language groups had submitted proposals on all parts of the convention so that the co-ordinators and the Drafting Committee could discuss them at the next session. It should be noted that the work of the Drafting Committee, and especially that of the co-ordinators, had been impeded by the lack of services during the last three weeks of the Conference.

18. He recommended that the Drafting Committee should meet for five weeks, from 12 July to 13 August, with a possible extension until 20 August. The proposed calendar appeared in document A/CONF.62/L.142. With regard to the venue of the Committee, while the majority of the participants in the Committee would prefer Geneva, he suggested that the Conference should decide on the matter once the Convention was adopted. He also trusted that all delegations and all co-ordinators of the language groups who had participated in the Drafting Committee's work would continue to do so. It was certainly in the interest of all that the convention should be well drafted.

19. With regard to the reference to the Free and Hanseatic City of Hamburg in the convention as the seat of the International Tribunal for the Law of the Sea, he announced that it had been agreed to postpone consideration of the matter until the following session of the Drafting Committee. Finally, he introduced his report on the recommendations of the Drafting Committee appearing in document A/CONF.62/L.147. At an informal plenary meeting, held on 16 April 1982, the Committee's recommendations set forth in document A/CONF.62/L.93 and L.94, which contained approximately 800 proposals, had been discussed. The Drafting Committee's recommendations, adopted at the informal plenary meeting, held on 16 April 1982, appeared in document A/CONF.62/L.142/Add.1.

Adoption of the draft convention and draft resolutions I-IV

20. Mr. de SOTO (Peru), speaking as Chairman of the Group of 77, said firstly that, in spite of the apparent ease with which the decision had been taken to incorporate in documents A/CONF.62/L.78, L.93 and L.94 the proposals made by the President in documents A/CONF.62/L.132 and L.141 and the fact that the Conference had raised no objec-

¹ The delegation of Saudi Arabia subsequently informed the Secretariat that it had intended to vote against the appeal.

² See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XV (United Nations publication, Sales No. E.83.V.4).

tions to those proposals, the decision to agree to their incorporation in the package now before the Conference had been an extremely painful one for the Group of 77. In 1980, the Group had believed that agreement had been reached on the basis of what was essentially a compromise proposal, yet it had been forced to make two further series of unilateral and basically unreciprocated concessions, some of which concerned fundamental aspects of the régime governing the sea-bed and the ocean floor beyond the limits of national jurisdiction. The Group of 77 had accepted the Chairman's recommendations in order to secure the adoption of the convention and the accompanying draft resolutions by consensus and had deeply regretted the fact that one delegation had deemed it indispensable to request that the package be put to a vote. It was the Group's hope and conviction, however, that the convention, which constituted an inextricable web of compromises in which, as the Secretary-General had observed in his opening statement, no delegation came out the winner, was the best possible basis for the juridical order of the oceans.

21. That package of proposals was not an ideal instrument for any State. For the Group of 77, it had been especially difficult to accept the proposal on the protection of preparatory investments. In the opinion of many members of the Group of 77, that proposal might, in its present format, constitute a derogation from and in any case a postponement of the implementation of the régime and the system conceived for the exploitation of the sea-bed and ocean floor. That system had itself already constituted a compromise formula which was quite far from the Group's preferences, yet the Group had accepted it in an effort at compromise and a spirit of pragmatism. The Group of 77 saw no political bias in that formula and did not believe that preference was being given to one system over another. It accepted it so that general agreement, and the universal, generally agreed-upon treaty referred to in the 1970 Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction³ might be achieved.

22. He wished to appeal to the industrialized Western countries to rally unanimously to that agreement and to recognize in it the fact that the Conference was about to adopt the best possible solution for all the problems of the oceans. He also wished to address an appeal to the Soviet Union and the socialist countries of Eastern Europe that had had some difficulties of principle with some aspects of draft resolution II on preparatory investments. At the same time, he wished to point out that the Group of 77 also had doubts, which he had just expressed, about that resolution and that some, and possibly many, members of the Group sympathized with the basic objection formulated by the Soviet Union with regard to the provisions of paragraph 1 (a) of the draft resolution.

23. The most important point, however, was the obligation that all States that were sponsoring activities or whose nationals were to be pioneer investors must ratify the convention. Therein lay the comprehensive agreement that was to permit the basic solution of ocean problems. The Group of 77 believed that, with the adoption of the régime of protection for preparatory investments, the problems that had preoccupied the industrialized countries that had found it necessary to adopt unilateral legislation regarding the sea-bed and ocean floor, and to enter into negotiations with a view to concluding agreements whereby such legislation would be mutually recognized, could be regarded as having been overcome from the practical as well as the juridical standpoints. The Group of 77 had stated its position on all such unilateral legislation on various occasions and in various forums and hoped that, with the agreements that the Conference was about to adopt, it would not be necessary to adopt further unilateral legislation and it would be possible to allay the fears of those countries that wished to exploit the sea-bed and ocean floor.

³ General Assembly resolution 2749 (XXV).

24. He hoped that the sea-bed régime set forth in the convention would be able to protect all States and to co-ordinate and rationalize all activities so that it could be implemented in conformity with the principle that the sea-bed and ocean floor constituted the common heritage of mankind.

25. Mr. TORRAS de la LUZ (Cuba) proposed that, in view of its importance, the statement by the Chairman of the Group of 77 should be reproduced *in extenso* in the summary record.

It was so decided.

26. Mr. MALONE (United States of America) requested a recorded vote on the draft convention and the related draft resolutions.

27. The PRESIDENT said that he regretted that the representative of the United States had made the request. The subject of the recorded vote would be the following group of provisions:

(a) The draft convention (A/CONF.62/L.78, as amended by documents A/CONF.62/L.93, L.132, annexes I, II, III and V, L.137 and L.141).

(b) Draft resolution I establishing the Preparatory Commission for the International Sea-Bed Authority and the International Tribunal for the Law of the Sea (A/CONF.62/L.94, as amended by annex III, para. 2, of document A/CONF.62/L.132 and document A/CONF.62/L.137, para. 2);

(c) Draft resolution II governing preparatory investment in pioneer activities relating to polymetallic nodules (A/CONF.62/L.132, annex IV, as amended by document A/CONF.62/L.141);

(d) Draft resolution III (A/CONF.62/L.94); and

(e) Draft resolution IV concerning national liberation movements (A/CONF.62/L.132, annex I).

To those documents should be added the recommendations of the Drafting Committee adopted at informal plenary meetings (A/CONF.62/L.85/Add.1-9 and L.142/Add.1).

28. Mr. LUCIO PAREDES (Ecuador) said that his delegation would not take part in the vote.

At the request of the representative of the United States of America, a recorded vote was taken on the draft United Nations Convention on the Law of the Sea and draft resolutions I-IV.

In favour: Afghanistan, Algeria, Angola, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Benin, Bhutan, Bolivia, Botswana, Brazil, Burma, Burundi, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Cuba, Cyprus, Democratic Kampuchea, Democratic People's Republic of Korea, Democratic Yemen, Denmark, Djibouti, Dominican Republic, Egypt, El Salvador, Ethiopia, Fiji, Finland, France, Gabon, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Iceland, India, Indonesia, Iran, Iraq, Ireland, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Morocco, Mozambique, Namibia, Nepal, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Portugal, Qatar, Republic of Korea, Romania, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Somalia, Sri Lanka, Sudan, Suriname, Swaziland, Sweden,

Switzerland, Syrian Arab Republic, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, United Republic of Cameroon, United Republic of Tanzania, Upper Volta, Uruguay, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe.

Against: Israel, Turkey, United States of America, Venezuela.

Abstaining: Belgium, Bulgaria, Byelorussian Soviet Socialist Republic, Czechoslovakia, German Democratic Republic, Germany, Federal Republic of, Hungary, Italy, Luxembourg, Mongolia, Netherlands, Poland, Spain, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland.

The United Nations Convention on the Law of the Sea and resolutions I-IV of the Conference were adopted by 130 votes to 4, with 17 abstentions.⁴

Mr. Hayes (Ireland), Vice-President, took the Chair.

29. Mr. LUCIO PAREDES (Ecuador) said that in his communication dated 13 April 1982 (A/CONF.62/L.128) he had informed the President of the Conference that his delegation would not join in the consensus for the adoption of the draft convention on the law of the sea. Throughout the Conference negotiations, his delegation had unswervingly defended the rights which his country possessed and exercised fully in both the continental part of its 200-mile territorial sea and in the Galapagos archipelago.

30. Relying on the principle of national sovereignty, his delegation could not countenance any difference being made with regard to legal status, and in the case of islands, wished to place on record that the definition of maritime spaces laid down by the convention with respect to archipelagic States placed archipelagos which formed part of the territory of a State in an unacceptable position.

31. Furthermore, article 64, which established a régime to govern the optimum conservation and utilization of highly migratory species, unequivocally made all the pertinent provisions of Part V of the convention applicable to those species, since it was obvious that there was no difference whatever in the content and scope of the sovereign rights which a coastal State exercised over all natural resources, living or non-living, whatever their habits, occurring in the water, on the sea-bed or in the subsoil thereof up to a distance of 200 miles.

32. As a member of the Permanent Commission on the South Pacific, which derived from the 1952 Santiago Declaration,⁵ his country, together with Colombia, Chile and Peru, had on 28 April 1982 addressed a letter to the President of the Conference, which had been distributed as document A/CONF.62/L.143.

33. Mr. BALETA (Albania), after recalling that the Albanian Government's position had been clearly reflected in the official documents of the Conference, said that, although the international community had adopted a convention and in spite of the positive results achieved thanks to the efforts of a considerable number of progressive countries, a number of important political, legal, military, economic and ecological questions remained without a genuine or fair solution.

34. His delegation must reaffirm the principle of international law whereby every sovereign State could determine the breadth of its territorial sea in accordance with its defense requirements, taking into account the geographical, biological and oceanographic conditions of the region and without prejudice to the interests of international navigation and neigh-

bouring States. In conformity with that principle, Albania had established by law a territorial sea 15 nautical miles broad and was determined to defend its sovereignty and interests in that area and in the airspace above it.

35. His delegation must state again that the right of innocent passage did not apply to warships, which could not benefit from the passage régime in the same way as merchant vessels. The warships of a State had no right to pass through the territorial sea of another State without prior consent of the latter. In that respect, the text of the Convention violated the sovereign rights of the coastal States. It was essential to bear in mind the danger which the so-called innocent passage of warships presented in current geopolitical conditions, in which the two super-Powers, the United States and the Soviet Union, had deployed war fleets and installed military, naval and air bases in all the seas and oceans. The passage of such fleets was always objectionable, threatening and aggressive. The two super-Powers and the military blocs had used every possible method to impose their position on the Conference in order to have a free hand and to justify the aggressive movements of warships.

36. Furthermore, the provisions of the Convention were unjust in that States that might wish to become parties to it were deprived of the right to enter reservations.

37. The principle of the common heritage of mankind had suffered grave impairment through the establishment of the parallel system. Part XI and related annexes, and in particular draft resolution II contained in annex IV of document A/CONF.62/L.132, concerning preparatory investment protection, contained provisions that would allow the two imperialist super-Powers and a very small group of capitalist industrial Powers, together with a handful of transnational corporations, to monopolize the immense resources of the sea-bed and benefit therefrom to the detriment of mankind as a whole.

38. The efforts made by the overwhelming majority of the participants in the Conference had not been sufficient to achieve just solutions to various questions because of all kinds of manoeuvres and pressures on the part of the super-Powers and the imperialist Powers. In defending their interests, the United States, the Soviet Union and others had gone so far as to pass legislation and prepare "mini treaties" concerning sea-bed mining. For a long time the United States had obstructed the work of the Conference, and it had maintained until the end its negative attitude. As a result of all those obstacles, the Convention suffered from shortcomings and loopholes, in view of which his delegation had not participated in the voting on it.

39. Mr. MALONE (United States of America) recalled that, three months earlier, President Reagan had stated that many of the provisions of the draft convention concerning navigation, overflight, the continental shelf, marine research, the marine environment, and other areas were basically constructive and in the interest of the international community. At the same time, President Reagan had announced that the United States had serious problems with elements of the deep sea-bed mining provisions and would seek changes to fulfil six broad objectives that would make the treaty acceptable to the United States. The United States Government had reached that conclusion after a comprehensive, year-long review covering all aspects of the draft convention. His delegation had come to the current session willing to work and negotiate with other delegations to find mutually acceptable solutions and had proposed a set of amendments that would have satisfied its objectives yet provided a fair and balanced system to promote the development of deep sea-bed resources. In a spirit of conciliation, it had later revised its proposed amendments to take into account views expressed by other delegations.

40. Three misconceptions had arisen about United States motivations. The first misconception had been that the United

⁴ The delegation of Liberia subsequently informed the Secretariat that it had intended to abstain in the vote.

⁵ See *Yearbook of the International Law Commission, 1956*, vol. I.

States was seeking essentially to nullify the basic bargain reflected in the draft convention. In fact, even if all the changes proposed by the United States had been accepted, there would still have been an international regulatory system for the deep sea-bed and an international mining entity. There had been no desire to destroy that system at all; rather the intention had been to structure it in a way that would best serve the interests of all nations by enhancing sea-bed resource development.

41. The second misconception had been that the primary interest of the United States in the deep sea-bed régime related to protecting a few United States business interests. That was a drastic misjudgement of the United States motivation and its commitment to certain principles. Finally, a widespread view which was also false was that the United States would in the end accept an unsatisfactory deep sea-bed régime because of the navigation provisions that served other national interests. On the contrary, the United States had consistently maintained that every part of the convention must be satisfactory.

42. His delegation had come to the current session determined to work with others to reach improvements that would accord with its objectives and ensure a viable sea-bed mining régime. Unfortunately, hopes that that task would be concluded successfully and an acceptable outcome reached had not been realized. Although modest improvements had been made in the draft convention, there had been an unyielding refusal on the part of some delegations to engage in real negotiations on most of the major concerns reflected in the amendments proposed by the United States and co-sponsored by Belgium, France, the Federal Republic of Germany, Italy, Japan and the United Kingdom. The compromise proposals put forward by other delegations had unfortunately not succeeded either.

43. It was important to make clear how far the Conference had fallen short of the objectives of the United States. First, the sea-bed mining provisions would deter the development of deep sea-bed mineral resources; such development was in the interest of all countries and especially of the developing countries. By denying the play of basic economic forces in the market-place, the Convention would create yet another barrier to rational economic development. Second, while there had been improvements to ensure access to deep sea-bed minerals for existing miners, the United States did not believe that the access necessary in the future to promote the economic development of those resources had been assured. At the same time, a system of privileges would be established for the Enterprise that would discriminate against private and national miners. Third, the decision-making process established in the deep sea-bed régime did not give a proportionate voice to the countries most affected by the decisions and would thus not fairly reflect and effectively protect their interests. Fourth, the Convention would allow amendments to come into force for a State without its consent, which was clearly incompatible with United States processes for incurring treaty obligations. Moreover, after having made substantial investments in deep sea-bed mining, the choice of either accepting an amendment at some future time or being forced to withdraw from the Convention entirely was not acceptable. Lastly, the deep sea-bed régime continued to pose serious problems for the United States by creating precedents that were inappropriate; the provisions on mandatory transfer of technology, potential distribution of benefits to national liberation movements and production limitations posed key problems for the United States Congress.

44. Consequently, although other provisions of the Convention were generally acceptable, the inescapable conclusion was that the Convention in its existing form did not fully satisfy any of the objectives of the United States with regard to the deep sea-bed régime. His delegation had therefore been

forced to vote against the convention and would have to report to his Government that its efforts to achieve an acceptable régime had not been successful.

45. Many delegations had come to the negotiations with different perspectives and diverse interests, and there were even differences of opinion on the meaning of the concept of the common heritage of mankind and the consequences flowing therefrom. Despite those differences, his delegation had held to the conviction that negotiation and compromise could produce a convention serving the interests of all States. Unfortunately, the Convention in its current form did not meet those standards. It would not bring more orderly and productive uses of the deep sea-bed to reality and it would not serve the broader goal of bringing the developed and developing countries closer together.

46. Mr. NAKAGAWA (Japan) said that his country had had certain difficulties in accepting the package proposal put to the vote, especially the changes introduced by the President with regard to Part XI and the annexes thereto. Although the change in article 155 was certainly an amelioration, the change introduced in paragraph 9 (a) of resolution II on preparatory investment (A/CONF.62/L.132) would have the result of making the already congested list of authorization applicants even more congested. In his delegation's view, the "deal" was in fact a concession added to another concession. Furthermore, his delegation was greatly disappointed by the fact that no improvement had been made in the provisions relating to the mandatory transfer of technology owned by a third party.

47. The President had rightly pointed out that Part XI was not the only part of the Convention; the other provisions constituted either the codification of existing rules of international law to be applied to the various aspects of the utilization of the sea or rules that would regulate the new problems facing the international community. Such codification and law-making were already overdue and if no convention on the law of the sea was adopted, not only would the efforts made during the past 10 years be wasted, but the international community would have to cope with increasing disorder and anarchy with regard to problems relating to the sea. It was from that broader point of view that his country had voted for the proposed package deal, despite its serious misgivings with regard to Part XI and the related annexes.

48. His country regretted that, despite the strenuous efforts of all participants, it had not been possible to adopt a universally acceptable convention by consensus, a situation which introduced an element of uncertainty with regard to the Convention's effectiveness. His Government would continue to study the situation before making a final decision as to the signature and ratification of the Convention.

49. Mr. BOUCHER (Argentina) said he deeply regretted that it had been necessary to adopt the Convention by taking a vote, although he was sure the fact that an overwhelming majority of States had voted in favour of the Convention would lead the Governments which had not done so to think the matter over and would encourage them to sign and subsequently ratify the Convention. If a separate vote had been taken on the various draft resolutions, Argentina would have voted against paragraph 2 of draft resolution II contained in annex IV of document A/CONF.62/L.132.

50. He reiterated the position set forth by his delegation at the 161st plenary meeting of the Conference to the effect that the transitional provision in the draft convention incorporated in a balanced manner norms of contemporary law that were in keeping with United Nations actions aimed at eliminating all traces of colonialism through the effective application of the principles of territorial integrity and self-determination. That provision appropriately approached the problem in the context of the new law of the sea, with a view to preventing

the Powers which controlled colonial or occupied territories from exercising any rights that might consolidate such unlawful situations. It was regrettable that that provision had not been retained.

51. Mgr. LEBEAUPIN (Holy See) expressed regret that the Conference had been obliged to take a vote, since he believed that consensus was the best way of adopting a decision concerning the way in which the common heritage of mankind should be administered. Since it had not been possible to reach agreement among all members of the international community, his delegation, in accordance with the principles which had governed its actions at all stages of the Conference, had decided not to participate in the voting.

52. Throughout the sessions of the Conference, his delegation's main concern had been that the international community should adopt not merely a logical and valuable text, but a set of provisions to ensure peaceful and equitable relations. The text just adopted would have to demonstrate its self-consistency and its ability to satisfy the requirements of international relations and the moral imperatives of a community progressing towards peace and justice. He reaffirmed the need for the international community to be guided in its actions by prudence, good sense and the grand ideals of the common good. Although there were many who would certainly have welcomed the adoption of a different text, it was to be hoped that, once the text was implemented, it would become obvious that a legal instrument was necessary for the creation of a world of respect for the rights and obligations of States, justice for those most in distress and universal enjoyment of resources.

53. Mr. MONNIER (Switzerland) said that his delegation had voted in favour of the draft convention and its annexes, despite its reservations concerning several of their provisions. He had in mind article 161, which, as currently drafted, would in practice deny many medium-sized industrialized States the opportunity to sit on the Council of the Authority, and annex III, article 5, concerning the mandatory transfer of technology to the Enterprise and to third States. That provision could in no way be considered a precedent in the ongoing negotiations in other forums on the question of the transfer of technology.

54. If Switzerland, nevertheless, was able to vote in favour of the draft convention, it would be because the many concessions on which the Convention was based reflected the fact that the vast majority of participating States wanted order, not anarchy, to reign on the oceans. Prompted by its respect for the rule of law in all spheres of international relations, his delegation had supported the Convention despite its imperfections and shortcomings.

55. Mr. KIRCA (Turkey) said that his delegation had explained on various occasions, as at the 160th plenary meeting of the Conference, the difficulties it had with some of the provisions of the draft convention, which could jeopardize Turkey's vital and legitimate interests.

56. Nevertheless, Turkey had done its utmost, until the very last minute, to secure a universally acceptable draft convention. In document A/CONF.62/L.120, it had proposed the deletion of article 309 from the text of the draft convention, with a view to accommodating those countries which wanted to become parties to the Convention while at the same time safeguarding their specific vital interests. Had that amendment been adopted, the draft convention would have enjoyed universal acceptance. Although that amendment and some others had been supported by a significant number of delegations, they had been unjustifiably rejected by a majority seeking to preserve intact the delicate balance that was unrealistically assumed to exist in the draft convention. For that reason and for the reasons explained at previous meetings and in order to make clear Turkey's determination to safeguard vital interests, his delegation had voted against the adoption of the draft convention.

57. Mr. JUNG (Federal Republic of Germany) said that his delegation had felt compelled to abstain in the voting, because it continued to hold the view that negotiations should and could have been pursued further in order to achieve a better balanced result.

58. His delegation had continuously emphasized its serious concerns and grievances. It had elaborated its position in document A/CONF.62/WS.16.⁶ It was particularly disappointed at the treatment received by the proposals it had submitted with other delegations concerning Part XI. There had been no opportunity for thorough discussions and proper negotiations regarding those proposals. The Convention and the other texts would have to be studied carefully. In its attitude towards those texts, the Federal Republic of Germany would take into consideration the attitude of other countries. At any rate, the position taken by his delegation at the current meeting in no way prejudged the question of future signature and ratification.

59. Miss DEVER (Belgium) said that her delegation had hoped, up to the very last minute, that it would be possible to secure a universally acceptable draft convention. However, after examining the text as it stood, it had decided that it could not vote in favour. That should come as no surprise to those who had followed the arguments consistently put forward by Belgium during the Conference. In the 14 years spent on the reform of the legal régime of the sea, Belgium had sought to ensure that the Convention reflected a just balance of the interests of all negotiating States. Unfortunately, that balance was not reflected in the text that had been put to the vote.

60. The provisions relating to the reform of the conventional law of the sea, pollution control and marine scientific research could be regarded as genuine compromise texts based on the positions of the negotiating States. That was not true, however, of the provisions regarding the exploration and exploitation of the mineral resources of the sea-bed. Such provisions were of fundamental importance to Belgium, for Belgian industry had taken risks in participating in an absolutely new sphere of activity. It was therefore normal to expect the conditions for the conduct of operations to be just and equitable. At the current session, her delegation had stated that Belgium was anxious to ensure that the composition of the organs established for the exploitation of the sea-bed provided for the equitable representation of countries such as Belgium, that the decision-making process took into account the interests of all groups of States, that the review procedure for the Convention did not unilaterally call in question the very basis of the system established by the Convention, and that the provisions relating to the transfer of technology took into account what was actually possible. The draft that had been put to the vote failed to accommodate those concerns.

61. Her delegation had hoped that, in the final days of the session, it would have been possible to find the compromise solutions necessary for a consensus. It was regrettable that so much time had been wasted on the discussion of Part XI of the Convention and the problem concerning the protection of preparatory investments; to her mind, that was a false problem. It was also regrettable that, because of the lack of flexibility, due regard had not been paid to the interests of the industrialized countries, although they had made major concessions in order to meet the concerns of the developing countries.

62. It was feared that the results of the implementation of Part XI of the Convention would be the opposite of what the General Assembly had sought to achieve in adopting the Declaration of Principles Governing the Sea-Bed and the

⁶See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XIV (United Nations publication, Sales No. E.82.V.2).

Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction in 1970.³ The approved régime might completely discourage investments for effective exploitation of the sea-bed in the interests of the developing countries, particularly the most disadvantaged, and the industrialized countries. The latter needed raw materials in order to maintain the level of economic and social development they had attained and in order to contribute to the development of other countries.

63. Mr. MARINESCU (Romania) said that his delegation had voted in favour of the draft convention, which included provisions concerning access to the fishery resources of economic zones, thus giving expression to the need to promote international co-operation in that respect. However, the right of access to those resources granted to countries with special geographical characteristics did not take sufficiently into account the situation of countries like Romania which were in regions or subregions that were poor in fishery resources and, for that reason, needed access to the fishery resources of the economic zones of other regions or subregions.

64. He hoped that that specific situation of Romania would be taken into account both in bilateral fishing agreements and in those of the international agencies competent in the matter. The Convention provided that the delimitation of the continental shelf should be effected between the parties concerned in order to achieve an equitable solution. The criteria and principles for delimitation laid down in the Convention constituted a general framework which would have to be applied on the basis of international law, legal precedents and the practice of States, and consideration must be given to all relevant factors, especially the fact that small unpopulated islands with no economic life of their own should not in any way affect the maritime space of coastal States.

65. With regard to the passage of foreign warships through the territorial sea, his delegation considered that the solution set out in the statement made by the President of the Conference at the 176th meeting on 26 April 1982, concerning the amendment contained in document A/CONF.62/L.117, reflected the spirit of co-operation of the 30 sponsoring States, representing a population of approximately 1.5 billion, with a view to arriving at a Convention that was in conformity with the principles of national independence and sovereignty and with protection of the security of all States.

66. In accordance with that statement, the agreement which had been reached should be understood to be without prejudice to the right of coastal States to adopt measures designed to safeguard their security interests. His delegation hoped that the solution would be applied in good faith, since the credibility of the Convention was at stake.

67. His delegation had always championed the sovereign right of States to make reservations and declarations in connection with multilateral international treaties and considered that, in accordance with the Vienna Convention on the Law of Treaties,⁷ a State retained that right when it became a party to a multilateral treaty.

68. With regard to the international sea-bed Area, his delegation wished to reaffirm that resolution II, concerning preparatory investment, should be implemented in a manner compatible with General Assembly resolution 2749 (XXV) of 17 December 1970 and with Part XI of the Convention. In keeping with its profound commitment to the concept of the common heritage of mankind, proclaimed by the General Assembly and elaborated in the Convention, Romania considered it essential that the implementation of the relevant provisions of the Convention and the resolution on preliminary investment should not impair that heritage and should

ensure that it was exploited for the benefit of all countries, particularly the developing countries. Romania could not, therefore, agree to any measure that was at variance with the fundamental principles governing the common heritage of mankind and its exploration and exploitation for the benefit of all countries.

69. His delegation regretted that, despite the concessions made by the majority of the participants in the Conference, it had not been possible to adopt the Convention by consensus.

70. Mr. ZEGERS (Chile) emphasized that universal recognition of the rights of sovereignty and jurisdiction of the coastal State within the 200-mile limit under the draft convention constituted a vital achievement for the States members of the Permanent Commission of the South Pacific, in accordance with the basic objectives laid down in the 1952 Declaration of Santiago.⁵ Those States had addressed to the President of the Conference a letter on the subject, dated 28 April. On the question of straits used for international navigation, his delegation reaffirmed the position stated at the Conference (164th meeting) and in its letter of 7 April to the President of the Conference (A/CONF.62/WS/19). Where maritime space and other aspects of the Convention were concerned, his delegation would also draw attention to the considerations it had advanced at the 164th meeting on 1 April.

71. His delegation wished to recall that the co-ordinators of the Drafting Committee of the Conference had agreed that the mistranslation in the Spanish text of article 37, which was not in conformity with the negotiated text, should be corrected; he requested the Drafting Committee to rectify the error as soon as possible.

72. The Convention was a significant milestone in the development of international law applicable to the settlement of disputes. The relevant provisions should be considered to form an important part of the Convention, closely linked to its substantive provisions. The Preparatory Commission must give priority to the adoption of rules, regulations and procedures to govern the exploration and exploitation of resources of the Area other than polymetallic nodules, in order to give effect to the Declaration of Principles contained in General Assembly resolution 2749 (XXV) and to the provisions of article 151 of the Convention. Lastly, his delegation regretted that the Conference had not been able to achieve a general agreement by consensus, despite the exhaustive efforts to arrive at one, and it hoped that those States which had been unable to support the Convention would become parties to it.

73. Mr. PINTO (Portugal) said that his delegation had voted in favour of the draft convention for the reasons given in previous statements, and in a spirit of collaboration with the international community. However, it wished to place on record its disagreement with some aspects of the Convention, and in particular with the provisions of Part XI relating to the composition of the Council, which in its view were discriminatory. He noted, for example, the treatment accorded to countries with a low or medium level of industrialization and to countries of heavy emigration. It was also a cause of great concern to his delegation that the Convention made no provision whatever for giving valid and impartial legal protection for future workers in the international sea-bed Area.

74. Mr. ROSENNE (Israel) said that his delegation had voted against the adoption of the draft convention together with the related resolutions which, as far as draft resolution IV was concerned, it did not regard as constituting an integral whole. His delegation could not accept any provision which would give any standing whatsoever to the so-called Palestine Liberation Organization. It would submit its comments and reservations in writing within the next few days.

75. Mr. CHAYET (France) said that his delegation had voted in favour of the draft convention because of its positive

⁷See *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).

elements, particularly the régime for the protection of preparatory investment, and the constructive contribution which it represented in connection with the North-South dialogue. His delegation's affirmative vote did not, of course, prejudice in any way the position to be adopted by the Government of France on the question of signing the Convention.

76. Although the draft convention was satisfactory in many respects—for instance, with regard to territorial waters, exclusive economic zones, the continental shelf, the legal régime of straits and pollution—Part XI, concerning exploration and exploitation of the international sea-bed Area, had serious drawbacks. His delegation hoped that Part XI could be reviewed in order to reach wider agreement and give the future Authority real prospects of success.

77. Mr. ÁGUILAR (Venezuela) recalled that he had had the honour to serve as Chairman of the First Committee of the General Assembly at its twenty-fifth session, which had adopted resolution 2750 C (XXV), convening the Third United Nations Conference on the Law of the Sea, and resolution 2749 (XXV), containing the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction. He had subsequently had the honour of representing Venezuela in the preparatory work of the Conference and at the 11 sessions of the Conference itself; it was therefore understandable that he regretted having had to vote against a draft convention which, with the exception of very few articles, was acceptable to Venezuela.

78. Venezuela would have preferred that the decision should be taken without a vote and that delegations like his own, which could not join in a consensus, should be allowed formally to record their reservations or objections. Venezuela's negative vote clearly and unequivocally placed on record that, since under article 309 of the draft convention reservations were not permitted, Venezuela could not accept articles 15, 74, 83 and 121, paragraph 3, in so far as those provisions applied to the delimitation of maritime and underwater areas between States with opposite or adjacent coasts.

79. In its statements at the 158th and 168th meetings on 30 March and 15 April respectively, and in its letter of 24 April 1982 to the President of the Conference (A/CONF.62/L.134), his delegation had stated the reasons why it could not accept those articles, to which should be added article 309.

80. His delegation particularly regretted that it had been unable to go along with the delegations belonging to the Group of 77, whose position on Part XI and related annexes it fully shared.

81. Mr. KASEMSRI (Thailand) recalled that in several previous statements concerning the régime of the exclusive economic zone, his delegation had observed that under the Convention Thailand would stand to lose many of the benefits and freedoms which it had hitherto enjoyed. Its fishing industry would be adversely affected to a very considerable extent by the relevant provisions of the Convention, to the detriment of a large sector of its population. Furthermore, Thailand had difficulties with the provisions relating to the delimitation of maritime zones between opposite and adjacent States.

82. It was apparent, therefore, that several provisions of the Convention would operate to the disadvantage of Thailand in areas vital to its interests.

83. As the Conference had proceeded, his delegation had endeavoured to defer to the interests and aspirations of the international community, and particularly of the developing countries, in the hope of facilitating the work of the Conference and the adoption of the draft convention by consensus. Since the draft had been put to the vote as an integral whole, Thailand had been obliged to abstain from voting pending a closer scrutiny of the text, but that did not preclude the possi-

bility that it might decide to become a party to the Convention at a later stage.

84. Mr. BOS (Netherlands) said that his delegation had always striven for a convention on the law of the sea that would be generally acceptable and could be adopted by consensus. A convention that would not be adhered to by the majority of countries, including the major ones, would not provide an adequate solution to the problems facing the world in the decades ahead, and he observed with the greatest regret and concern that the draft convention before the Conference did not meet those requirements. In the course of the Conference, his delegation had joined in the consensus that had seemed to be emerging although, like virtually every other delegation, it had had doubts concerning some of the solutions found. Unfortunately, a consensus had been impossible with respect to a very important part of the Convention, that relating to the régime of the international Area. Without the participation of the major countries of the world, the elaborate system set up in Part XI of the Convention for the exploitation of the resources of the international Area would not function as envisaged.

85. His country would have preferred to continue the search for generally acceptable solutions in order to implement the concept that the sea-bed and ocean floor and the subsoil thereof beyond the limits of national jurisdiction were the common heritage of mankind.

86. Although the other parts of the Convention constituted an important accomplishment, it must be acknowledged that the text had been drafted as an integrate whole. That being so, his country, in consultation with other countries, would carefully consider the question of signing the Convention.

87. Mr. ARIAS SCHREIBER (Peru) said that, in his Government's view, the draft convention on the law of the sea reconciled, to the greatest extent possible, the basic interests of the international community regarding the utilization of the various zones of the ocean space as an instrument of peace, security, development, well-being and co-operation.

88. In a written statement dated 4 April 1980 (A/CONF.62/WS.6),⁸ his delegation had referred to the positions held by his country since the preparatory stage of the Conference, to the progress made up to that time with regard to the establishment of a more just order for the exploitation of the sea and the questions to which a satisfactory solution had not yet been found; similarly, in a statement made to the 139th plenary meeting of the Conference on 27 August 1980,⁶ it had referred to the progress made and the criteria which Peru felt should be used to delimit the territorial sea, the exclusive economic zone and the continental shelf between neighbouring States; those two statements should be taken as constituting the framework for Peru's position.

89. The universal recognition of the coastal State's rights of sovereignty and jurisdiction within the 200 mile limit was a great achievement for the countries that were members of the Permanent Commission for the Exploitation and Conservation of the Maritime Resources of the South Pacific. The régime established for administering the Area and the resources of the sea-bed beyond the limits of national jurisdiction as the common heritage of mankind was likewise of fundamental importance. Although the texts agreed upon did not fully satisfy all the initial aspirations, they paved the way for joint action by the industrialized countries and the developing countries with a view to utilizing the immeasurable wealth in question. Peru had played a very active part in the formulation and negotiation of that régime, because of its interest as a land producer of minerals whose uncontrolled exploitation in the sea would have serious effects on its economy.

⁸See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XIII (United Nations publication, Sales No. E.81.V.5).

90. On the other hand, the provisions of the draft convention concerning the territorial sea and the exclusive economic zone and their relation to air space affected Peru's juridical and constitutional norms, and he therefore wished to state that he had voted in favour of the draft convention *ad referendum* and on condition that the conflict involving those norms could be resolved in accordance with the procedures laid down in the constitution of Peru.

91. Mr. KOZYREV (Union of Soviet Socialist Republics) said that although the text of the draft convention did not take into account the interests of all States, it did not harm any of them and represented a balanced and satisfactory compromise formula based on the principle of the sovereign equality of all States.

92. At the 174th, 177th and 179th meetings, held on 23, 28 and 29 April, his delegation had explained in detail its reservations regarding paragraph 1 (a) of draft resolution II on preparatory investment in annex IV of document A/CONF.62/L.132, which in its view created a situation of political discrimination against the Soviet Union. Although he realized that the proposals put forward on that subject were the result of great efforts, he could not accept a text which discriminated against his country.

93. Throughout the Conference, his country had acted on the assumption that it was necessary to establish a legal régime for the sea-bed that would further international co-operation, facilitate the exploitation of sea-bed resources for peaceful purposes and take the interests of all countries into account. The instrument to be adopted within that framework should promote the establishment of a just and equitable new international economic order that took into account the interests and needs of all mankind, paying special attention to the developing countries and the least-developed countries. His delegation had supposed that recognition would be given to the principle that all mineral resources situated beyond national jurisdiction constituted the common heritage of mankind, and had urged all States to take those observations into account, for not all the countries that could promote the application of the Convention's objectives were prepared to co-operate with the international community, as one delegation had previously stated clearly and concisely.

94. He regretted that the Group of 77 had not heeded his words. His delegation would, of course, continue to study the situation with a view to considering whether his country might become a party to the Convention, but for the reasons he had given it had been obliged to abstain from voting.

95. Lastly, he regretted that during the last days of the Conference amendments had been introduced which created a situation of political discrimination against his country and had prevented it from voting in favour of the draft convention and its annexes which, in general, it considered acceptable.

96. Mr. MORSHED (Bangladesh) said that, in voting in favour of the draft convention on the law of the sea, his country had been mindful of the President's recommendation that the various texts should be considered part of an integral whole. His delegation had approached the work of the Conference in a spirit of goodwill and accommodation, and solidarity with the Group of 77.

97. His delegation wished to reiterate its position with regard to the drawing of base lines from which areas of maritime jurisdiction were measured, which was set forth in document A/CONF.62/L.140. Its vote in favour of adopting the Convention should be read in the light of that position.

98. Mr. LACLETA MUNÓZ (Spain) said that his country's interests had not been duly taken into account in the formulation of the final compromise solution. After many years of effort, his delegation had been forced to submit a series of amendments contained in document A/CONF.62/L.109, to various articles of the convention and another amendment to

draft resolution III, which had either been withdrawn in a last effort at compromise or had been put to the vote. Since those amendments, to which his Government attached great importance, had not been incorporated into the text, it would not have been surprising if his delegation had voted against the draft.

99. However, his Government, aware of the political and historical importance of the final moments of the Conference, had simply abstained, because it considered that its position on a question of great importance, which affected it very directly, had not been properly reflected in the text of Part III of the draft convention and more particularly in articles 38, 39, 41 and 42. His country's position in that respect was set forth in document A/CONF.62/L.136. Furthermore, his Government could not accept the text of resolution III as a whole and objected in particular to paragraph 2 thereof.

100. Lastly, his Government considered that, at least with regard to the questions he had mentioned, the texts approved by the Conference did not constitute a codification or expression of customary law.

101. Mr. POWELL-JONES (United Kingdom) said that it had long been a major objective of the United Kingdom that the Conference should end with the adoption by consensus of a convention which had obtained general agreement.

102. During the current session and indeed throughout 1981 the United Kingdom had been particularly concerned that sufficient flexibility should be shown on all sides to make possible agreement on outstanding issues and on other problems, particularly concerning Part XI, which were a cause of concern to certain delegations.

103. It was a matter of great regret that those objectives had proved unattainable. The adoption of a convention without consensus was not the outcome for which the United Kingdom had worked and hoped. The United Kingdom had therefore been obliged to abstain in the vote.

104. Mr. CALERO RODRIGUES (Brazil) said that the affirmative vote of his delegation on the draft convention on the law of the sea and draft resolutions I to IV, in conformity with the position taken by the Group of 77, was without prejudice to the decision to be taken by the Brazilian Government on the question of the signing of the Convention.

105. Mr. VARVESI (Italy) said that his delegation had always hoped that, after long years of negotiation, the Conference could adopt by consensus a convention acceptable to all participants and it regretted that despite all the efforts made, it had been necessary to take a vote.

106. At the 178th meeting, on 28 April, his delegation had repeated its request that its proposals concerning Part XI should continue to be the subject of negotiations; the Conference, however, had not agreed. His delegation had accordingly been compelled to abstain, and the draft convention would be subjected to thorough and exhaustive review by his Government.

107. Mr. CISSÉ (Mali) said that the United Nations Convention on the Law of the Sea, in favour of which his delegation had voted, would mark the beginning of a new era characterized by the implementation of unprecedented legal provisions, with the basic elements for a more humane evolution of the collective destiny of all peoples. For the first time in history, universal willingness had been manifested to share among all peoples of the world their common heritage. The political and legal elements of a promising future had been defined, and that might well point to a fundamental change in the thinking that had brought about an obsolete, unjust, contradictory and deeply unbalanced world.

108. Moreover, it had to be borne in mind that every human achievement could be improved and developed. The lacunae and shortcomings of the text would be overcome with time. The main thing was that the concept that the interests of all

people were interdependent had been sanctioned by rules the infringement of which would adversely affect everyone.

109. Mr. ENKHSAIKHAN (Mongolia) said that his delegation had fully supported the President's reports and proposals in annexes I, II, III and V of documents A/CONF.62/L.132 and L.141.

110. With regard to annex IV of document A/CONF.62/L.132, containing draft resolution II on preparatory investment in pioneer activities relating to polymetallic nodules, he had heard no convincing argument to the effect that paragraph 1 (a) (ii) did not discriminate against the States referred to in paragraph 1 (a) (i) and (iii). Each of the States referred to in the latter two subparagraphs had to sign the Convention before its State enterprise or natural or juridical person could qualify as a pioneer investor, whereas not all the States mentioned in paragraph 1 (a) (ii) would be required to sign the Convention in order to allow their consortia to qualify as pioneer investors. His delegation had taken note of the President's explanation that the formulation of article 1 (a) had been the result of a trade-off between the Group of 77 and some industrialized countries and that the concession made by the Group of 77 in paragraph 1 (a) (ii) was more than compensated by the industrialized countries through the provisions of paragraph 8 (c), whereby no plan of work for exploration and exploitation would be approved for any of the entities referred to in paragraph 1 (a) (ii) unless all the States whose natural or juridical persons made up those entities were parties to the Convention. Although he considered paragraph 8 (c) as an important improvement of the text of the resolution, the strong objections of many delegations, among them the Soviet Union delegation, persisted with regard to paragraph 1 (a). Those objections were well founded and reasonable inasmuch as the formulation of article 1 (a) was both legally and politically discriminatory, a fact that had been confirmed by the reply of the Legal Counsel to the inquiry on the subject made by the Soviet Union delegation.

111. Paragraph 1 (a) discriminated against countries that had adopted the socialist socio-economic system which, by its content, was much closer to the ideal of the common heritage of mankind, since it was designed for the benefit of society as a whole. When it was borne in mind that the entities mentioned in subparagraph (ii) were private companies whose benefits and profits were obviously not shared with the rest of society or with the Governments concerned, the common heritage would clearly benefit primarily those entities while their countries of origin would not be bound by the provisions of the Convention.

112. If the principle of non-discrimination meant, in law, treating equals as equals, private consortia and States should not be put on the same level. If there had to be any discrimination or differentiation, it should be in favour of sovereign States and not of private entities. It was States that would be the prime channels through which peoples would be benefiting from the common heritage of mankind. Consequently the Conference should pursue first of all the benefit of all States, irrespective of the social and economic systems, even on the issue of preparatory investment in pioneer activities.

113. For the foregoing reasons, if draft resolution II (A/CONF.62/L.132, annex IV) had been the subject of a separate vote, his delegation would have voted against it. However, since the vote had covered the draft convention as a whole, his delegation, on the basis of its position of principle, had been compelled, with deep regret, to abstain. His delegation considered that the provisions of the draft convention as a whole were fairly balanced and acceptable and would have preferred them to be adopted by consensus.

114. The fact that his delegation had abstained in the vote did not mean in any way that it denied for its country or other

members of the international community the enormous economic, political and other benefits offered by the Convention.

115. Mr. OMAR (Libyan Arab Jamahiriya) said that his country's position with regard to both preparatory investment in pioneer activities relating to polymetallic nodules and the proposed amendments to Part XI of the draft convention had been clearly set out in document A/CONF.62/L.131.

116. In an earlier statement his delegation had clearly explained its position that the sea-bed and ocean floor and the subsoil thereof outside national jurisdiction and their resources were the common heritage of mankind; their exploration and exploitation should benefit all mankind, irrespective of the geographical position of the State concerned. Consequently, it rejected the idea that a small group of States should enjoy special benefits and was opposed to any parallel system in relation to the international Area.

117. His delegation had voted in favour of the draft convention and the related resolutions, in conformity with the position of the Group of 77, in order to join in an agreement which was in the interests of peace and of equity for all the world's peoples. The Convention as a whole contained many positive elements which offset the difficulties that some of its provisions created for his country.

118. His delegation heartily welcomed the fact that after years of efforts the international community had been able to adopt a convention which, it hoped, would contribute to a just and equitable international economic order.

119. Mr. CHARRY SAMPER (Colombia) said that the Convention adopted codified the law which would govern the seas and oceans according to a single comprehensive concept whereby all the relevant problems were inseparably linked, concerned the whole international community and should be settled in that spirit.

120. Colombia, as a member of the Permanent Commission of the South Pacific, reiterated the terms of the letter submitted jointly with the delegations of Chile, Ecuador and Peru on 28 April (A/CONF.62/L.143). Universal recognition of the rights of sovereignty and jurisdiction of the coastal State within the 200-mile limit was a fundamental achievement of the countries members of that Commission in line with the basic objectives set forth in the Santiago Declaration of 1952.⁵ Those objectives had been incorporated in the United Nations Convention on the Law of the Sea, the adoption of which was a historic act of the highest importance, strengthening the role of the United Nations in the world.

121. Mr. SHEN Weiliang (China) said that the overwhelming majority of the participating countries and, in particular, the developing countries had made enormous efforts to formulate a new convention on the law of the sea acceptable to all countries. Nevertheless, the recent adoption of the draft convention was only a first step towards the establishment of a new legal order of the sea because there were still imperfections and even serious defects in a number of its provisions. It was necessary for the developing countries to continue their effort to safeguard the purposes and principles of the Convention and to defend the legitimate rights and interests of their countries. With regard to the international sea-bed régime, the draft resolution on preparatory investment had accommodated too many of the demands of a few industrialized Powers, and the implementation of resolution II, contained in annex IV of document A/CONF.62/L.132, should be in conformity with the provisions of the Convention. Moreover, in order to safeguard the principle of the common heritage of mankind and the provisions of the Convention, it should be borne in mind that any unilateral legislation in respect of the deep-sea mining was null and void.

122. With regard to the question of the régime of the passage of warships through the territorial sea, the sponsors of

document A/CONF.62/L.117, heeding the President's appeal for consensus and taking into account the President's interpretative statement on that issue, had not pressed for a vote on their amendment. He reiterated that the provisions governing innocent passage through the territorial sea did not prejudice the right of the coastal State to require prior authorization or notification for the passage of foreign warships through the territorial sea in accordance with its laws and regulations.

123. Mr. KAMANDA wa KAMANDA (Zaire) explained that his delegation's affirmative vote should be interpreted as recognition of the efforts made to establish a law of the sea which would safeguard the legitimate interests of all countries, in particular, the developing countries. It was unfortunate that the power relationships prevailing during the last stage of negotiations, characterized by the defense of narrow interests by certain States, had shaken the foundations of the new law and it had not been possible for the Convention to be adopted by consensus. In any event, his delegation supported the concept of the common heritage of mankind which would help to establish a new international economic order.

124. His delegation had duly submitted amendments (A/CONF.62/L.107) to the provisions concerning the biological resources of the exclusive economic zone (articles 62, 69, 70 and 71 of the Convention) and he recalled that, when withdrawing them, it had announced that their content reflected the interpretation placed on those articles by Zaire. It had also submitted an amendment to article 157 in order to fill some gaps in the text and, in particular, to specify the planning powers vested in the Authority under article 150. Zaire would submit a written statement setting forth in detail the questions concerning which, in its opinion, its legitimate interests had not been taken into account.

125. Mr. YATIM (Malaysia) explained that, while aware that the Convention did not fully meet the requirements of all parties owing to the need for concessions in order to arrive at a generally acceptable text, his delegation had voted in favour of its adoption.

126. He referred to the letter, dated 29 April 1982, addressed to the President of the Conference on behalf of the delegations of Indonesia, Singapore and Malaysia (A/CONF.62/L.145). Attached to that letter was a statement on an understanding relating to article 233 of the draft convention and its application to the Straits of Malacca and Singapore. The understanding was the outcome of consultations held between the coastal States bordering the Straits of Malacca and Singapore and the States which were the major users of those straits. He recalled that, in recent years, the Straits of Malacca and Singapore had been the scene of many maritime accidents owing mainly to the narrowness of the Singapore Straits and the shallow waters in some areas. In response to the letter of his delegation, the delegations of the States which were major users of the Straits of Malacca and Singapore had addressed to the President of the Conference letters (A/CONF.62/L.145/Add.1-8) confirming the contents of document A/CONF.62/L.145.

The speaker read out the text of the statement relating to article 233 of the draft convention on the law of the sea in its application to the Straits of Malacca and Singapore.

127. Mr. KOROMA (Sierra Leone) appealed to all delegations that, after careful reflection, they join in the new international legal order represented by the draft convention. With the adoption of the Convention, the United Nations had become truly universal since, in addition to dealing with matters terrestrial, the Organization was now to deal also with activities in and on the oceans. Like the United Nations, the Convention would continue to evolve and deserved every possible support so that it could serve as an instrument of peace and as international machinery for the promotion of the economic and social advancement of all peoples.

128. His delegation had serious reservations regarding some of the provisions of the Convention. For instance, Sierra Leone advocated a territorial sea of 200 miles for which the Convention did not provide. It was also unhappy with resolution II governing preparatory investment and was opposed to the veto principle written into the Convention contrary to the Organization of African Unity declaration on the law of the sea.⁹ His delegation had none the less voted in favour of the Convention in a spirit of compromise and appealed to other nations not to isolate themselves from the new universal régime of the sea.

129. Mr. GOERNER (German Democratic Republic) pledged his country's full support to the United Nations Convention on the Law of the Sea and to resolutions I, III and IV which were the result of lengthy and intensive negotiations and took into account the rights and interests of all States and peoples.

130. According to its preamble, the Convention would "contribute to the strengthening of peace, security, co-operation and friendly relations among all nations in conformity with the principles of justice and equal rights and promote the economic and social advancement of all peoples of the world, in accordance with the Purposes and Principles of the United Nations as set forth in its Charter". The fact that for the first time in history there had been a successful attempt to regulate within a general framework and in accordance with the principles of international law all human activities related to the peaceful uses of the oceans and their resources showed that, even in difficult situations, it was possible to open up new fields for co-operation among States in the interests of international peace and security. The Convention just adopted was aimed at ensuring freedom of navigation, efficient utilization of marine resources, conservation of the marine environment and other uses of the sea for the benefit of all peoples.

131. The positive assessment that could be made of the Convention was not applicable, however, to resolution II on preparatory investment which had been drafted in response to the demand of various Western States which wished to accommodate the interests of a number of multinational corporations. His delegation reiterated its serious reservations with regard to paragraph 1 of resolution II which clearly discriminated against the Soviet Union and other States. His delegation therefore supported firmly the position of the Soviet Union in that connection and would have voted against resolution II had it been put to a separate vote.

132. In those circumstances, it was with deep regret that the delegation of the German Democratic Republic had had to abstain in the vote on the Convention as a whole.

133. Mr. MOMTAZ (Iran) said that his delegation, in a spirit of compromise and co-operation with the international community, had voted in favour of the United Nations Convention on the Law of the Sea. None the less, the text thus adopted continued to create difficulties for Iran. That was the case with regard to the provisions of the innocent passage of warships through the territorial sea and the provisions on Parts VIII and X of the Convention. His delegation also had serious reservations regarding resolution II on preparatory investment.

134. Mr. KRYSOSIK (Poland) recalled that Poland had participated actively in the lengthy negotiations on the Convention and therefore deeply regretted the fact that it had not been able to vote in favour of it.

135. Poland would have accepted the Convention as a package, together with the related resolutions, had it not been for the fact that resolution II on preparatory investment in pioneer activities contained in annex IV of document A/CONF.62/L.132 contained formulations that discriminated

⁹*Ibid.*, vol. XV, document A/CONF.62/104.

against the socialist States and was thus contradictory to its interests. It was solely for that reason that his delegation had been unable to support the draft convention as a whole and had abstained in the vote on it.

136. His delegation none the less wished to emphasize that it accepted and supported the other parts of the Convention which was a major achievement contributing to international peace and security and mutually beneficial co-operation among States.

137. Mr. LUPINACCI (Uruguay) said that his delegation viewed the verdict of the overwhelming majority of the international community in adopting the United Nations Convention on the Law of the Sea as an historic event of fundamental importance for the establishment of a comprehensive legal order applicable to maritime spaces. His delegation deeply regretted the fact that it had not been possible to adopt the Convention by consensus and hoped that those delegations which, because of certain specific points, had not been able to vote for it would be able to overcome their difficulties. No attitude adopted at the current session would in any case definitively prejudge the issue of the signature and ratification of the Convention.

138. The recognition of the right of sovereignty of the coastal State over its exclusive economic zone and continental shelf for all economic purposes and its exclusive jurisdiction with regard to scientific research, conservation of the marine environment and the establishment of artificial islands, installations and structures, strengthened the validity of those institutions of international law of the sea. Similarly, the establishment of a régime and an international authority for the sea-bed area beyond the limits of national jurisdiction and of a comprehensive system for the settlement of disputes were major achievements. The instrument adopted did not contain an ideal formula reflecting fully the common good of the international community and satisfactory to each and every State. It would none the less benefit all States and the international community as a whole. Moreover, in times which were fraught with difficulties for coexistence among nations, the Convention represented a major step along the road to international co-operation and the consolidation of international law and in the search for international justice and peace.

139. Mr. MHLANGA (Zambia) said that his delegation, which had participated enthusiastically in the adoption of the 1970 Declaration of principles on the sea-bed and ocean floor,³ had not voted with the same enthusiasm in favour of the draft convention on the law of the sea.

140. Zambia was a land-based producer of minerals which would also be extracted from the sea-bed, a situation which was most likely to have an adverse effect on its economy. In order to avoid such an effect, Zambia had sought to amend the sea-bed production policy and had suggested the inclusion in the draft convention of a formula relating to cobalt and nickel, a suggestion that had not been accepted. It had also suggested the establishment of a compensation fund, a suggestion which again had not been fully accepted. Instead, there was the provision which postponed the establishment of such a fund. He hoped that the weak provision included in the text of the Convention would in fact result in the establishment of the much-needed compensation fund, with appropriate powers for performing its functions effectively.

141. As a land-locked country, Zambia was also interested in securing rights of access to and from the sea and to a share in the natural resources of the sea. With regard to the right of access, the Convention contained provisions which might mistakenly be interpreted by some as being dependent on the negotiation of bilateral agreements. He hoped that, when States came to apply those provisions, they would recognize that their intention was to secure that right. With regard to the right to the natural resources of the sea, his delegation was not

happy with the provisions relating to the régime of the continental shelf and the exclusive economic zone contained in Parts V and VI of the Convention and had therefore worked for the establishment of régimes which would be regional in character and would not operate to the exclusion of land-locked States, a position based on objective data contained in document A/AC.138/87 according to which, for instance, if the limits of national jurisdiction were to be 200 nautical miles, 87 per cent of hydrocarbon reserves would belong solely to coastal States and the common heritage of mankind would be left with only 13 per cent. The adopted text provided for that limit, however, when it referred to the economic zone and went even further when it referred to the continental shelf.

142. Zambia had none the less voted in favour of the draft convention as a whole because it contained some positive elements and because the alternative might have been lawlessness on the seas.

143. Mr. UL-HAQUE (Pakistan) said that the adoption of the United Nations Convention on the Law of the Sea represented a historic landmark in the efforts of the international community to consolidate the rules that were to govern the seas. It was none the less regrettable that, despite the tremendous efforts and numerous unilateral concessions made by the developing countries, it had not been possible to adopt the Convention by consensus. He hoped that those delegations which had not voted in favour of the Convention would reconsider their position and join with the international community so that the nature and application of the Convention might be genuinely universal.

144. Although Pakistan had voted in favour of the Convention, his Government's position regarding certain articles had not changed. For instance, Pakistan believed that the right of passage of warships should be exercised in accordance with the domestic legislation of States through whose territorial waters such ships were to pass. In its view, the Convention protected that right and coastal States could demand prior notification or authorization for the innocent passage of warships through their territorial waters. His delegation also believed that the right of access and freedom of transit of land-locked countries would impinge on the sovereignty of coastal States and was therefore unacceptable. At the same time, freedom of transit accorded to land-locked countries would continue to be governed by bilateral agreements between those States and coastal States.

145. Mr. PRANDLER (Hungary) said that his delegation greatly regretted the fact that it had had to abstain during the voting on the draft convention. It nevertheless believed that the Convention as a whole was acceptable, including Part X concerning right of access to and from the sea and the freedom of transit, and that the major elements of the Convention constituted a generally acceptable legal régime.

146. If a separate vote had been taken on resolution II concerning preparatory investment protection in annex IV of document A/CONF.62/L.132, his delegation would have voted for the Convention as a whole, while expressing its strong reservations on the discriminatory treatment accorded to various groups of States in that resolution.

147. His delegation also wished to place on record its readiness to study most carefully the text of the Convention adopted in order to recommend to its Government the most appropriate measures to be taken in the future.

148. Mr. SHASH (Egypt) said that, because it had hoped that so many years of efforts would culminate in success, Egypt had voted in favour of the draft convention, even though it was not satisfied with all of the provisions. His Government would study the texts adopted in detail and in the light of its interests. His delegation had wanted the question of reservations to be governed by the Vienna Convention on the

Law of Treaties⁷; although that view had not prevailed, article 310 allowed Governments to make statements in relation to their national legislation.

149. In compliance with the request of the President of the Conference, his delegation had not pressed for the adoption of its amendment concerning security in the territorial sea (A/CONF.62/L.117). Egypt observed the principle of sovereignty over the territorial sea and would study the Convention's relevant provisions, keeping in mind its internal law and international law in general.

150. His delegation recalled that its position on the Convention's various provisions had been reflected during the discussions at the Conference and within the group of African States and the Group of 77, in which Egypt had rallied to the common position. Even though it had hoped that the Convention could have been adopted by consensus, Egypt believed that a general legal system applicable to all seas would be developed.

Mr. KOH (Singapore) resumed the Chair.

151. Mr. YANKOV (Bulgaria) said that his delegation deeply regretted not having been able to vote in favour of the package which had been before the Conference. It had been unable to accept one of the provisions of a draft resolution in an annex of document A/CONF.62/L.132, which had been submitted too late for the contents to be examined thoroughly. The question of preparatory investment protection and the related question of the definition of pioneer activities had preoccupied the Conference for a long time, diverting it from the consideration of the text of the Convention itself. All possible concessions had been made to satisfy certain demands, and that had led to a highly dangerous situation consisting in an attempt to establish a régime not merely parallel but even alternative to the one provided for in the Convention.

152. For that reason, Bulgaria had abstained during the voting, not because of the content of the documents or the fundamental principles governing the law of the sea, but because of a specific text and a given provision which allowed for discriminatory treatment of States and left loopholes for the possible beneficiaries of the régime. That was unacceptable at a time when the sovereignty of States and respect for differing social and economic systems had achieved general recognition.

153. If a separate vote had been taken on the various documents, his delegation would have voted in favour of the draft convention and of draft resolutions I, III and IV. Bulgaria reaffirmed the commitment for the new law of the sea which it had manifested from the start of the Conference. It had always believed in the need for a just and rational régime governing the uses of the seas and their resources. The Convention which had been adopted was a balanced set of rules without precedent in international law. It not only solved problems of the present but was also oriented towards the future.

154. In conclusion, he wished to record that his Government would carefully examine the results of the session in order to determine its final position.

155. Mr. CARIAS (Honduras) recalled that his delegation had participated actively at all stages of the Conference and welcomed the contribution that the Conference had made to the establishment of a just and peaceful order for the uses of the seas and of their resources.

156. The fact that the Convention had not been adopted by consensus was regrettable in view of its historical importance and its relationship to the new international economic order, which was reflected in the incorporation of new legal institutions, such as the exclusive economic zone and the Area of the

sea-bed and ocean floor and subsoil thereof beyond the limits of national jurisdiction.

157. Mr. SHIN (Republic of Korea) said that, although some articles of the Convention did not fully correspond to the interests of his Government, his delegation had voted in favour of the Convention, taking into account the aspirations of most delegations, including the members of the Group of 77.

158. Mr. TARCICI (Yemen) recalled that, as explained in the statement read out by the President at the 176th meeting on 26 April, his delegation had agreed not to press the amendment contained in document A/CONF.62/L.117 concerning innocent passage of warships through the territorial sea. In that statement, the rights of coastal States to adopt measures to safeguard their security interests, in accordance with articles 19 and 25 of the Convention, were reaffirmed.

159. His delegation regarded the President's statement as a reference and, although not entirely satisfied with the text of the Convention, had voted in favour of it in a spirit of compromise.

160. Mr. BEESLEY (Canada) said he was convinced that the Convention which had been adopted was one of the greatest achievements in the history of the United Nations. He shared the feeling of regret that it had been necessary to resort to a vote and that the text which had been adopted did not have the support of the great Powers. It was to be hoped that, in the future, those who had had reservations would understand that the Convention was of decisive importance for their own interests and would carefully examine not only the sea-bed mining provisions or other specific provisions, but also the provisions of the Convention as a whole.

161. For once, lawyers had not played the role that they were generally accused of playing: order had not been turned into chaos, but rather order had been created out of chaos. Even though 14 years had been required, the results justified the time that had been spent. Many potentially dangerous jurisdictional problems, from the breadth of the territorial sea to such new questions as jurisdiction beyond the territorial sea with respect to fishing, marine scientific research and other activities, had been resolved. Furthermore, entirely new concepts had been created, the most important of which was clearly the common heritage of mankind. In that connection, he commended Professor Arvid Pardo, who had been the driving force behind the joint enterprise notion. What had once been an ideal had taken concrete form in legal concepts which would ultimately become law.

162. The exclusive economic zone represented one of the Conference's greatest compromises. The initial divergence of views had been great and, as in the case of other compromises, reciprocal concessions had been made to accommodate various interests, so that perhaps no State had achieved all of its aspirations.

163. The concept of the régime for archipelagic States, which had been one of the most delicate problems, was an important innovation. No one could deny the importance of the development of the right of passage through international straits. The consideration of the problem of ice-covered areas provided an example of an occasion on which the two great Powers had joined in agreement with the small countries in the interest of mankind. The concept of the rights of landlocked and geographically disadvantaged States should also be mentioned. Those ideas would never have been formulated without the Conference. Part XII of the Convention, concerning the protection and preservation of the marine environment, was also a triumph of major import for the future, while the provisions on the peaceful settlement of disputes were a collective achievement.

164. In his delegation's opinion, then, the Conference had successfully completed a unique task. It was regrettable that

there had not been consensus, but he was sure that consensus could be achieved in the future.

165. The PRESIDENT said that, since resolution III had been adopted, the words "transitional provision" at the end of the draft convention should be deleted.

Draft resolution in document A/CONF.62/L.127

166. The PRESIDENT said, as a result of consultations held by one of the members of the Collegium, Ambassador Yan- kov of Bulgaria, it appeared that there was general agreement that draft resolution A/CONF.62/L.127, presented by Peru on behalf of the Group of 77, could be adopted without a vote.

167. Mr. WOLF (Austria), speaking on behalf of the land-locked and geographically disadvantaged States, said that the foot-note concerning the preamble to the draft resolution was unnecessary because the Convention had been adopted, and he requested that it should be deleted.

168. The PRESIDENT announced that the sponsors of the draft resolution had acceded to the request of the representative of Austria. If he heard no objection, he would take it that the Conference wished to adopt the draft resolution without a vote.

Draft resolution A/CONF.62/L.127 was adopted without a vote.

169. Mr. KIRCA (Turkey) said that his delegation agreed with the third, fourth and ninth preambular paragraphs and with paragraphs 1 to 5 of the resolution which had been adopted. If the text had been put to a vote, Turkey would have voted against the resolution as a whole, because it considered that the new maritime régime referred to in the other paragraphs, instead of contributing to the establishment in semi-enclosed seas of a just and equitable international economic order, might give rise to not only economic but also political disorder.

Resumed session of the Conference for the conclusion of the work of the Drafting Committee and consideration of its recommendations

170. The PRESIDENT said that two questions had to be resolved, namely, when, where and for how long the Drafting Committee was to meet and when the Conference was to meet again to consider the recommendations of the Drafting Committee. The consultations held with the Chairman of the Drafting Committee indicated that, in order to complete its work, that body would have to meet from 12 July to 13 August 1982, with the possibility of an extension for a further week. If there were no objections, he would take it that the Conference wished to approve that proposal.

It was so decided.

171. Mr. ZULETA (Special Representative of the Secretary-General), referring to the venue of the session, said that the preliminary consultations held by the Secretariat showed that the difficulties in finding the necessary services for the Drafting Committee were pretty much the same at both headquarters, because the calendar approved by the Committee on Conferences was very full. Consequently, he considered that it would be very helpful to the Secretariat, if the Conference would permit it, before making a definite recommendation, to obtain the opinion of the Committee on Conferences and then abide by that recommendation as far as possible.

172. Mr. ENGO (Cameroon) said that the next session of the Drafting Committee would be extremely important. If it was held in New York, it might be regarded as a continuation

of the activities of the Conference; on the other hand, if it was necessary to hold it in Geneva, a special decision of the General Assembly might perhaps be required.

173. In his delegation's view, there were two reasons for opting for New York; on the one hand, the Drafting Committee would be dealing with questions of a sensitive political character, which would require the presence of members of the respective missions and also interested observers and, on the other, from the financial point of view, it would avoid the additional expenses that would be entailed by moving representatives and staff to Geneva.

174. Mr. KOROMA (Sierra Leone), speaking as a member of the Drafting Committee, said that, in deciding the venue of the next session of that body, account should be taken of the necessity of maintaining equitable geographical representation. It should be recalled that the States members of the Group of 77, including Sierra Leone, did not have large delegations in Geneva.

175. The PRESIDENT said that the Conference would request the special representative of the Secretary-General to establish, firstly, what were the possibilities at Geneva and in New York and, in the event that they were equivalent, to take into account the fact that the preference of the Conference would be for the Drafting Committee to meet in New York. If there were no objections, he would take it that the Conference accepted that procedure.

It was so decided.

176. Mr. MWANANG'ONZE (Zambia) requested that, when a final decision was taken on the venue of the session of the Drafting Committee, all States participating in the Conference should be so informed, not just those composing the Committee.

177. Mr. BEESLEY (Canada) asked when a decision would be taken on the venue of the session of the Drafting Committee.

178. The PRESIDENT said that, as he had been informed by the Special Representative of the Secretary-General, the decision would be taken in one to two weeks.

179. He suggested that the plenary meetings of the Conference to consider the recommendations of the Drafting Committee should be held in New York from 22 to 24 September. If there were no objections, he would take it that the Conference accepted that suggestion.

It was so decided.

Arrangements for the adoption and signing of the Final Act in Caracas, Venezuela

180. Mr. ZULETA (Special Representative of the Secretary-General) said that, since the end of the tenth session, consultations had been held on the matter with the Government of Venezuela, which had agreed to maintain a flexible position regarding the date, in order to take into account the needs of the Conference. For his part, he could state, without compromising the final position of Venezuela or of the Secretary-General, that it would be possible to hold the session for the signing of the Final Act and the opening of the Convention for signature during the first part of the month of December, subject to further talks with the Government of Venezuela.

181. The PRESIDENT said that, if there were no objections, he would take it that the Conference agreed to what had been stated by the Special Representative of the Secretary-General.

It was so decided.

Final statements

182. Mr. ZULETA (Special Representative of the Secretary-General) said that the Secretary-General had intended to attend the session but that, owing to the lateness of the hour, he had had to honour other commitments which could not be postponed. At all events, he wished to express, through the speaker, his appreciation for the culmination of a long labour.

183. After 14 years of intense work, a legal instrument had been adopted to regulate the use of the seas and national exploitation of resources and, at the same time, to create an adequate legal framework to ensure that conflicts which arose in relation to the seas might be resolved peacefully.

184. History would confirm that the joint and sustained effort of so many human beings of exceptional qualities, who had worked indefatigably in search of general agreement, would serve to strengthen the role of the United Nations in the maintenance of peace and security, in the promotion of balanced economic and social development that would contribute to the establishment of a more equitable international economic order and in the emergence of a new world outlook, based on the concept that mankind as a whole had an obligation to preserve a common heritage for the benefit of future generations.

185. The lives of all those present had been enriched in a way which was difficult to describe.

186. It had been learned that once people were willing to listen to and understand the problems of others, solutions could be found which would be acceptable to the great majority and, in the future, to everyone.

187. The participants in the Conference had learned to live together as friends, indeed practically as brothers, and the bonds of friendship and respect which had linked them for so many years would continue in being as a sign that respect for the individual outweighed the transient difference which might come between nations.

188. Every one of the representatives who had taken part in the Conference deserved a special speech of thanks. That was particularly true, however, of those who had presided over the negotiations, formally or informally, or had worked on the drafting of compromise texts, and in so doing had given a good part of their lives to the community in the service of a cause in which they believed. Many of them, beginning with President Amerasinghe, had left the world without living to see the momentous day which was, ultimately, a tribute to their memory.

189. He believed that he was speaking for all his colleagues in all departments of the Secretariat, including those who, in their booths or down in the basement of the building, helped to provide the facilities for work and communication, both oral and written, in many languages, in telling the President that their having had the opportunity to assist in the monumental task which he had accepted and fulfilled with such talent, perseverance and unbelievable vigour would be a treasured foot-note to the pages of their lives and a most pleasant memory to pass on to their children as part of that process of education which ended only in death.

190. It was no less a pleasure to express similar sentiments of respect, admiration, gratitude and friendship to the President's comrades in the Collegium, Paul Bamela Engo of Cameroon, Andrés Aguilar of Venezuela, Alexander Yankov of Bulgaria, Alan Beesley of Canada and Kenneth Rattray of Jamaica.

191. A new page was being turned in the law of the sea. The Convention put an end to long years of uncertainty regarding the rights and duties of States in the ocean space. It was, however, merely the first step in a long process in which only co-

operation among States could breathe life into the newborn infant.

192. The Convention would be what the States wanted it to be. He, for his part, could assure members that, within the scope of its functions under the United Nations Charter, the Secretariat was prepared to offer any assistance which Governments might consider necessary.

193. There was a character in French literature called *Le Bourgeois Gentilhomme*, who had discovered belatedly that he had been speaking prose without realizing it. The Conference, knowing very well what it was doing, had not taken so long to make history.

194. Mr. ARIAS SCHREIBER (Peru), speaking as Chairman of the Group of Latin American States, expressed his deep gratitude for the skill, objectivity and constructive spirit shown by the President of the Conference in his efforts to ensure that the Convention would be adopted by consensus. The developing countries for their part had honoured the gentleman's agreement and done their utmost to negotiate a treaty which would be generally acceptable to all the participating States.

195. He also paid a tribute to Mr. Aguilar, Chairman of the Second Committee. Notwithstanding the circumstances which had prompted Venezuela's vote, his Latin American colleagues would never forget the impartiality and integrity he had shown in helping to formulate the longest and most difficult parts of the new Convention, the name of which would be linked to that of the hospitable capital of his country.

196. Mr. KOROMA (Sierra Leone), speaking as Chairman of the Group of African States, thanked the President of the Conference for his selfless dedication and perseverance and the personal sacrifices he had made in the hope of bringing the Conference to consensus.

197. Mr. GOERNER (German Democratic Republic), speaking as Chairman of the group of Eastern European (socialist) States, thanked the President for his untiring personal efforts in guiding the work of the Conference. It was regrettable that the efforts which the President had made had not resulted in the adoption of the Convention by consensus, but everyone knew the reasons for that. He likewise thanked the members of the Collegium, whose experience and dedication had made it possible to solve complex problems while taking into account the legitimate interests of all parties, and expressed his gratitude to the Chairmen of the Working Groups, to the Chairmen of the Committees, and to the staff of the Secretariat, who had shown a great sense of responsibility.

198. Mr. GIÖRGOLÒ (Italy), speaking as Chairman of the group of Western European and other States, paid a tribute to the skill shown by the President of the Conference, and conveyed to him his group's most sincere gratitude.

199. Mr. AL JUFAIRI (Qatar), speaking as Chairman of the group of Asian States, thanked the President for the efforts he had made, which had resulted in the adoption of a Convention which, it was to be hoped, would serve all mankind. He also paid a tribute to the Secretary-General and to the Secretariat of the United Nations for their services to the Conference.

200. Mr. TARCICI (Yemen), speaking on behalf of the Chairman of the group of Arab States, expressed his gratitude for the noble efforts and great talents of the President of the Conference. He asked the President to convey his group's gratitude to the Secretariat and to all those who had contributed to the success of a historic conference.

201. Mr. RATINER (United States of America), taking the floor as a representative of the host country, said that the United States delegation associated itself with the expressions of gratitude addressed to the officers and to all the Secretariat

staff, who had made the Conference possible. He wished also to offer his personal congratulations to all his friends and colleagues who had taken part in the work of the Conference.

202. The PRESIDENT said that the Conference had kept its rendezvous with history. After eight years of hard work, it had at last reached the summit.

203. The journey had actually begun not in 1973, when the Conference had commenced its work, but in 1967, the year in which the then Permanent Representative of Malta, Mr. Arvid Pardo, had made a historic statement in the First Committee of the General Assembly.¹⁰ That statement had launched them on their journey, and he now took the opportunity to pay a tribute to Mr. Pardo.

204. Since 1967, when the *Ad Hoc* Committee to Study the Peaceful Uses of the Sea-Bed and Ocean Floor beyond the Limits of National Jurisdiction had been established, until his death in 1980, the captain of the ship had been Hamilton Shirley Amerasinghe. It was now fitting for the Conference, on that historic day, to remember him and to acknowledge the debt it owed him. The new Convention should constitute a lasting monument to his memory.

205. He said that both he and the other participants in the Conference, with a few exceptions, were like the proud parents of a new-born baby and it was natural for them to feel that way. They were not, however, the most objective persons to evaluate the merits or demerits of the Convention just adopted. Intellectual humility dictated that they should be restrained in praising their own work and that they should let history vindicate or condemn them. In any case, he believed that he would not be departing from the tradition of intellectual humility if he were to point out some of the unique features of the Convention, its importance to the international community and the unique methods of work of the Conference.

206. First, it was the first Convention covering all aspects of the uses and resources of ocean space. In that respect, it differed from the 1958 Geneva Conventions, which covered only limited aspects of the law of the sea.

207. Second, the Convention did not merely codify existing international laws; it also contained many new concepts of international law, such as the exclusive economic zone and the common heritage of mankind, to cite only two examples. Those innovative concepts had been negotiated and agreed upon in response to the advance of technology, to the demands for greater international equity, especially by the new nations, and to new uses of the sea and its resources.

208. Third, the Convention contained important and agreed limits on different maritime zones of coastal States, agreed régimes of passage for ships through and aircraft over critical sea-lanes and clearly established rights and obligations of coastal States, on the one hand, and third States, on the other, in the territorial sea, in the exclusive economic zone and on the continental shelf. In that way, the Convention would have made a significant contribution to the promotion of peace and security among nations and to law and order in ocean space.

209. Fourth, for many developing land-locked countries, one of the most important benefits of the Convention was the agreement it contained on the right of access of the land-locked States to and from the sea and on freedom of transit.

210. Fifth, the Convention contained important provisions on the protection and preservation of the marine environment. In their totality, those provisions represented a significant advance in the common struggle to prevent, reduce and control pollution of the marine environment.

211. Sixth, the Convention had made a significant contribution to the elaboration of a comprehensive set of rules on marine scientific research and on the promotion of international co-operation in the field of marine technology.

212. Seventh, unlike most other treaties, the Convention contained mandatory provisions on the settlement of disputes which, in his view, made another contribution to the peaceful settlement of disputes between States and to the promotion of the concept of world peace through law.

213. Eighth, for those who cared deeply for the preservation of marine mammals, especially whales and dolphins, as he did, the Convention enjoined States to co-operate, through appropriate international organizations, for their conservation, management and study. However small that step might be, it was a step in the right direction.

214. Referring to Part XI of the Convention, on the exploration and exploitation of the resources of the international area of the sea-bed and the ocean floor beyond the limits of national jurisdiction, he said that it had been negotiated among three parties, the developing countries and the Group of 77, the Western industrialized countries and the group of Eastern European (socialist) States. The successful outcome of the negotiations demonstrated that it was possible for North and South, East and West, to co-operate with one another, to acknowledge each other's interests and to seek mutually acceptable solutions to them. In a world often marked by confrontation, misunderstandings and even violence, it was no exaggeration to say that, in that little part of human enterprise represented by the Conference, nations from every ideological and geographical group had eschewed the path of confrontation in favour of co-operation. Neither was it an exaggeration to say that the majority of the developing countries in the Conference had not imposed their majority power on the minority, and the minority of powerful States had always tried to accommodate the legitimate interests of the less powerful States. It had been a relatively successful exercise of the North-South dialogue, in spite of the fact that it had not been possible to adopt the Convention by consensus.

215. The successful outcome of the Conference was important for the prestige and credibility of the United Nations. It showed that the United Nations could be an effective forum for multilateral negotiations on issues of vital importance to all States and to the international community as a whole. It also showed that, given the necessary political will, States could avail themselves of the United Nations as a centre for harmonizing their activities.

216. In conclusion, speaking on behalf of the Conference as a whole, he acknowledged his debt to his colleagues in the Collegium, with whom he had worked during the past two years as a united team. He also expressed his appreciation to the Chairmen of the negotiating groups and to the devoted members of the Secretariat, under the able and effective leadership of Mr. Bernardo Zuleta.

217. Now that the Convention had been adopted, the time had come for the participants to return to their countries and promote public understanding of the importance of the Convention, so as to convince Governments and parliaments to sign and ratify it in a timely manner. He hoped that those few delegations which had voted against the Convention or had abstained on it would, after further reflection, support it.

Closure of the first part of the session

218. The PRESIDENT announced that the Conference had concluded its work for the first part of the eleventh session.

¹⁰ See *Official Records of the General Assembly Twenty Second Session, First Committee*, vol. II, 1542nd meeting.