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INTERGOVERNMENTAL OCEANOGRAPHIC COMMISSION
(of Unesco)

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REPORT FROM THE CHAIRMAN ON THE FIRST PART OF THE NINTH SESSION OF
THE UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA
(NEW YORK, 3 MARCH TO 4 APRIL 1980)

1. The first part of the Ninth Session of the United Nations Conference of the Law of the Sea (UNCLOS) was held in New York, from 3 March to 4 April 1980. It was attended by a total of 152 States. The Intergovernmental Oceanographic Commission was represented by the Chairman (Dr. Agustín Ayala Castañares), the First Vice-Chairman (Dr. N.J. Campbell), the Secretary (Dr. M. Ruivo), on an alternative basis, and the Third Vice-Chairman (Dr. Inocencio A. Ronquillo) during the whole session.

2. The Session was successful in achieving visible progress toward agreement on a number of important pending matters. A revised negotiating text incorporating changes in the existing text which were "found from the widespread and substantial support prevailing in Plenary, to offer a substantially improved prospect of consensus" was prepared by the President of the Conference and the Chairmen of its three main Committees, taking into account the criteria for introducing changes in the text as laid down by the Conference in 1978. The Informal Composite Negotiating Text/Revision 2 (A/Conf. 62/WP.10/Rev. 2) of 11 April 1980 is the result of that work.

Leaving aside progress made in matters not of direct concern to IOC, certain developments are of special interest to the Commission:

2.1 At the Ninth Session, the informal plenary took up the question of the Preamble and made sufficient progress to enable incorporation of provisions related to that item in the revision. It should be noted that the Preamble recognizes "the desirability of establishing, through the Convention and with due regard for the seas and oceans which would facilitate international communication and promote their peaceful uses."

2.2 Regarding matters considered by the First Committee, public discussions in the Committee and the plenary during the last week revealed substantial support among delegations for including in the revised negotiating text changes suggested by Negotiating Group Chairmen on matters pertaining to the international sea-bed area. Although most representatives expressed reservations on specific points, they generally agreed that the new proposals offered a better basis for negotiation than the 1979 version although they could not regard it as a final draft.

It is worthwhile recalling that, according to article 143, the "Authority may carry out marine scientific research concerning the area and its resources and may enter into contacts for that purpose. The Authority shall promote and encourage the conduct of marine scientific research in the area, and shall co-ordinate and disseminate the results of such research and analysis when available." In accordance with paragraph 3 of article 143, States Parties shall promote international co-ordination in marine scientific research in the area, by participating in international programmes and by ensuring that programmes are developed through the Authority or other international organizations as appropriate for the benefit of developing States and technologically less developed States, with a view, among other objectives, to strengthening their research capabilities.

In the revised text the Authority's role in the protection of the marine environment is strengthened by a new paragraph (4) to article 165 which states that the Legal and Technical Commission shall "make recommendations to the Council regarding the establishment of a monitoring programme which shall observe, measure, evaluate and analyze by recognised scientific methods on a regular basis the risks and effects of activities in the area with respect to pollution of the marine environment, ensure that existing regulations are adequate and complied with and co-ordinate the implementation of the monitoring programme approved by the Council."

2.3 Regarding issues under the Second Committee, a revised definition of the continental shelf emerged from Negotiating Group 6 with "a substantially improved prospect of a consensus, when compared to earlier drafts", according to the Chairman of the Group and of the Second Committee. Article 76 (Definition of the continental shelf) paragraph 8, establishes that "information on the limits of the continental shelf beyond the 200 mile exclusive economic zone shall be submitted by the coastal states to the Commission on the Limits of the Continental Shelf set up under Annex II on the basis of equitable geographical representation. The Commission shall make recommendations to coastal states on matters related for the establishment of the outer limits of the continental shelf".

Article 3, paragraph 2 of the Annex establishes that the Commission "may co-operate, to the extent considered necessary and useful, with the Intergovernmental Oceanographic Commission of Unesco, the International Hydrographic Organization and other competent international organizations with a view to exchanging scientific and technical information which might be of assistance in discharging the Commission's responsibilities".

A recent letter (15 April 1980) from Mr. Bernardo Zuleta, Under Secretary-General and Special Representative of the Secretary-General to UNCLOS, addressed to IOC, pointed out that "since such specific reference to international organizations has not been the practice of the Conference in the ICNT, it is most appropriate that this new development is brought to the attention of the bodies concerned. At the same time, it should be noted that Annex II requests the Secretary-General of the United Nations to provide the Secretariat for this Commission. Servicing arrangements also would therefore be expected to take account of the co-operation and assistance that could be provided by the IOC and the IHO".

He also stated that "the Secretary-General attaches great importance to the contribution the United Nations system should be able to make to the effective implementation of the Convention in the future, and thus to the need for a careful examination of the institutional implications of the provisions the Conference has drafted. Although the provisions of Annex II would not begin to take effect until at least 10 years after entry into force, it would nonetheless be helpful if the IOC and IHO Secretariats could begin to identify potential key elements in the co-operation and assistance they might be able to provide such a Commission and its Secretariat. It would seem relevant, for example, to take account of the technical expertise and methods adopted for the development of the General Bathymetric Chart for the Oceans. I make special mention of this joint IOC/IHO programme in view of the valuable services already rendered to the Conference by GEBCO experts. Any examination of future needs may also have to take account of the situation with respect to available specialized training in the marine geosciences and hydrography".

He added that he "would like to suggest also that the marine geoscience and hydrographic communities, through IOC and IHO, be encouraged to examine the other provisions of the Conference that call for extensive charting of marine areas. The development of the necessary expertise in hydrography, including nautical charting and baseline delineation will be a major undertaking for many developing countries and may require new efforts in education, training and institution-building by the IOC and the IHO.

All such questions will clearly need to be included in an examination of the institutional implications of the future Convention for the United Nations system".

He further expects "that the IOC Executive Council meeting will give the opportunity to examine some of these questions more closely and will allow an interesting exchange of views".

2.4 The Third Committee concentrated its work on a number of pending issues to Part XIII (Marine Scientific Research), which remained unsettled. As stated in the Report of the Chairman of that Committee the main problem area was the regime for the conduct of marine scientific research on the continental shelf beyond 200 miles, the conditions for suspension or secession of marine scientific research activities and the problem of settlement of disputes relating to the interpretation of implementation of the provisions of the Convention concerning marine research.

Further consideration was also given to the draft article relating to the rights of land-locked and geographically disadvantaged states with regard to marine scientific research activities, and some questions of drafting nature pertaining to other problems.

The Third Committee has made substantial progress during the New York session. The negotiations resulted in compromise proposals on which consensus was achieved. This was the case of articles 242 (Promotion of International Co-operation), 247 (Research Projects under the Auspices of, or undertaken by international organizations), 249 (Duty to comply with certain conditions), and 255 (Measures to facilitate marine scientific research and to assist research vessels).

Intensive negotiations also sought positive results and formulae offering better prospects for agreement on article 246 (Marine scientific research in the exclusive economic zone and the continental shelf), 253 (Suspension or cessation of research activities), 254 (Rights of neighbouring land-locked states and geographically disadvantaged states), and 264 (settlement of disputes).

The Chairman of the Third Committee pointed out that there were some reservations and objections on substance or of a drafting nature but, in his considered view from the widespread support prevailing in the Committee, they were to provide a prospect of consensus as referred to in paragraph 10 of document A/Conf. 62/62.

The Third Committee accomplished all its tasks at the present negotiating stage of the Conference.

A special reference should be made to article 246, as it would liberalize the application of the "consent regime" in those parts of the continental shelf beyond 200 miles from shore, while giving coastal states unchallengeable right to prohibit foreign research in certain areas where resources were involved.

Reference should also be made to a proposed amendment to article 247 aimed at giving the coastal state four months in which to object to a research project under the auspices of, or undertaken by, an international organization, which project the coastal state shall be deemed to have authorized if that state approved it when the decision was made by the organization to undertake the project or expressed its willingness to participate in it.

3. At its final meeting in New York, the Conference agreed on a time-table for the Geneva part of the session (28 July - 29 August 1980). According to this schedule, it is to devote the first two weeks to negotiations on unsettled issues, using the new revision of the negotiating text that has emerged from the New York meetings. The third week is to be used for a general debate at which delegations will be able to comment on the entire range of issues covered in the convention and address specific suggestions for change.

During the third week at Geneva, another revision of the text would be prepared. At the end of that week, the Conference would decide what status to accord this text. Conference President, H. Shirley Amerasinghe, suggested that it be called a "basic proposal", to which delegations could introduce formal amendments no later than the second day of the fifth week.