

## **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/WP.9**

### **Informal single negotiating text (part IV)**

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

non-governmental organizations having consultative status with the Economic and Social Council and the execution of its activities in accordance with the above-mentioned General Assembly resolutions and in conformity with rules of the rules of procedure.

English

Foundation for the Studies of the Law of the Sea

DOCUMENT A/CONF.62/WP.9

(Approved by the Conference on 18 April 1975)

At its 6th meeting, held on 8 April 1975, the Conference approved the inclusion of the following in the list of international non-governmental organizations having consultative status with the Preparatory Committee and thus mentioned in resolution 10 of its 30th meeting, in accordance with the above-mentioned General Assembly resolutions and in conformity with rules of the rules of procedure:

Foundation for the Studies of the Law of the Sea

DOCUMENT A/CONF.62/WP.9

(Approved by the Conference on 18 April 1975)

At its 54th meeting, held on 9 April 1975, the Conference approved the inclusion of the following in the list of international non-governmental organizations having consultative status with the Economic and Social Council and the execution of its activities in accordance with the above-mentioned General Assembly resolutions and in conformity with rules of the rules of procedure:

English

FOUNDATION FOR THE STUDIES OF THE LAW OF THE SEA

**DOCUMENT A/CONF.62/WP.9**

**Informal single negotiating text\***

**PART IV**

*(Text presented by the President of the Conference)*

[Original: English]  
[21 July 1975]

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**INTRODUCTORY NOTE**

At its 15th meeting held at Caracas on 21 June 1974, the Third United Nations Conference on the Law of the Sea approved the recommendations of the General Committee on the allocation of subjects and issues as contained in its first

\* This text consists of four parts: parts I, II and III appear in document A/CONF.62/WP.8 (see *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. IV; United Nations publication, Sales No. E.75.V.10) and part IV in the present document.

report (A/CONF.62/28).<sup>1</sup> In that report the General Committee had recommended that "Settlement of disputes", item 21 of the list of subjects and issues, be dealt with by each committee in so far as it was relevant to their mandates. However, on account of its importance and interest to the Conference as a whole, it was left for the consideration of the Conference in plenary.

At its 55th plenary meeting on 18 April 1975, the Conference decided to request each of the chairmen of its three committees to prepare an informal single negotiating text covering the subjects and issues assigned to his Committee. In keeping with the spirit of this decision and by analogy it should be the President's duty to submit to the Conference an informal single negotiating text on any item that is not the exclusive concern of any of the main committees. As the subject of settlement of disputes would be an essential and vitally important element in the proposed convention, the President has deemed fit to present the attached informal single negotiating text in order to facilitate the process of negotiation. The text is based to a considerable extent on the work of the informal group on the settlement of disputes. Although it could not necessarily incorporate all the proposals that have been made, it seeks to blend, within the limits of practicality, the essence of the various alternatives.

This text has taken into account all the formal and informal discussions held so far, is informal in character and does not prejudice the position of any delegation nor does it represent any negotiated text or accepted compromise. It should therefore be quite clear that this negotiating text will serve as a procedural device and only provide a basis for negotiation. It must not in any way be regarded as affecting either the status of proposals already made by delegations or the right of delegations to submit amendments or new proposals.

It may be noted that the informal single negotiating text presented by the Chairman of the First Committee

<sup>1</sup> See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. III (United Nations publication, Sales No. E.75.V.5).

accordance with the special procedures provided for in the present Convention or an annex thereto shall not constitute a precedent except for that particular commission or committee.

#### *Article 18*

1. Nothing contained in the present Convention shall require any Contracting Party to submit to the dispute settlement procedures provided for in the present Convention any dispute arising out of the exercise by a coastal State of its exclusive jurisdiction under the present Convention, except when it is claimed that a coastal State has violated its obligations under the present Convention: (i) by interfering with the freedoms of navigation or overflight, or the freedom to lay submarine cables and pipelines, or related rights and duties of other Contracting Parties; (ii) by refusing to apply international standards or criteria established by the present Convention or in accordance therewith, provided that the international standards or criteria in question shall be specified.

2. When ratifying the present Convention, or otherwise expressing its consent to be bound by it, a Contracting Party may declare that it does not accept some or all of the procedures for the settlement of disputes specified in the present Convention with respect to one or more of the following categories of disputes:

(a) Disputes arising out of the exercise of discretionary rights by a coastal State pursuant to its regulatory and enforcement jurisdiction under the present Convention;

(b) Disputes concerning sea boundary delimitations between adjacent States, or those involving historic bays or titles, provided that the State making such a declaration shall indicate therein a regional or other third-party procedure, entailing a binding decision, which it accepts for the settlement of these disputes;

(c) Disputes concerning military activities, including those by Government vessels and aircraft engaged in non-commercial service, it being understood that law enforcement activities pursuant to the present Convention shall not be considered military activities;

(d) Disputes in respect of which the Security Council of the United Nations is exercising the functions assigned to it by the Charter of the United Nations, unless the Security Council has determined that specified proceedings under the present Convention would not interfere with the exercise of such functions in a particular case.

3. If the parties to a dispute are not in agreement as to the applicability of paragraphs 1 or 2 to a particular dispute, this preliminary question may be submitted for decision to the tribunal having jurisdiction under articles 9 and 10 of this chapter by application of a party to the dispute.

4. A Contracting Party, which has made a declaration under paragraph 2, may at any time withdraw it in whole or in part.

5. Any Contracting Party which has made a declaration under paragraph 2 shall not be entitled to invoke any procedure excepted under such declaration in relation to any excepted category of dispute against any other Contracting Party.

6. If one of the Contracting Parties has made a declaration under paragraph 2 (b), any other Contracting Party may compel the declarant to refer the dispute to the regional or other third-party procedure specified in such declaration.

## **ANNEX I A**

### **Conciliation**

#### *Article 1*

Any reference of a dispute to the conciliation procedure provided for in this annex shall be subject to the provisions of article 7 of chapter . . . of the present Convention.

#### *Article 2*

A list of conciliators shall be drawn up and maintained by the Registrar. To this end, every Contracting Party shall be entitled to nominate four conciliators, each of whom shall be a person enjoying the highest reputation for fairness, competence and integrity. The names of the persons so nominated shall constitute the list. If at any time the conciliators nominated by any Contracting Party in the list so constituted shall be less than four, then that Contracting Party shall be entitled to make further nominations as necessary. The term of a conciliator, including that of any conciliator nominated to fill a casual vacancy, shall be five years and may be renewed. A conciliator whose term expires shall continue to fulfil any function for which he shall have been chosen under the following article.

#### *Article 3*

Whenever a dispute is referred to conciliation under article 7 of chapter . . . of the present Convention, the party or parties initiating this procedure shall notify the Registrar, who shall notify all the parties of such reference. The Registrar shall assist the parties in the establishment of a Conciliation Commission, which shall be constituted as follows:

1. The State or States initiating the procedure shall appoint:

(a) One conciliator of the nationality of that State or of one of those States, who may or may not be chosen from the list referred to in article 2 of this annex; and

(b) One conciliator not of the nationality of that State or of any of those States, who shall be chosen from the list.

2. The State or States constituting the other party to the dispute shall appoint two conciliators in the same way.

3. The four conciliators chosen by the parties shall be appointed within 30 days following the date on which the Registrar issues the notification and shall, within 30 days following the date of the last of their own appointments, appoint a fifth conciliator chosen from the list, who shall be chairman.

4. If the appointment of the chairman or of any of the other conciliators has not been made within the period prescribed above for such appointment, it shall be made by the Secretary-General of the United Nations within thirty days following the expiry of that period. The appointment of the chairman shall be made by the Secretary-General from the list referred to in article 2. Any of the periods within which appointments must be made may be extended by agreement between the parties to the dispute.

5. Any vacancy shall be filled in the manner prescribed for the initial appointment.

#### *Article 4*

The Conciliation Commission shall decide its own procedure. The Commission, with the consent of the parties to the dispute, may invite any Contracting Party to submit to it its views orally or in writing. Decisions and recommendations of the Commission shall be made by a majority vote of the five members.

#### *Article 5*

The Commission may draw the attention of the parties to the dispute to any measures which might facilitate an amicable settlement.

#### *Article 6*

The Commission shall hear the parties, examine their claims and objections, and make proposals to the parties with a view to reaching an amicable settlement of the dispute.