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Reports of the Committees and Negotiating Groups on negotiations at the resumed seventh session contained in a single document both for the purposes of record and for the convenience of delegations

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REPORT TO THE PLENARY BY THE PRESIDENT
ON THE SETTLEMENT OF DISPUTES

In the area of dispute settlement there would appear to be some issues that need to be resolved. Two of these issues were selected as hard-core issues and dealt with in Negotiating Groups 5 and 7. The report of the Chairman of Negotiating Group 5, his compromise formula and the report of the Chairman of Negotiating Group 7 are before you as documents NG5/17, NG5/16 and NG7/21 respectively.

Negotiating Group 5 considered the question of "disputes relating to the exercise of sovereign rights by coastal States in the exclusive economic zone". Under the chairmanship of Ambassador Stavropoulos of Greece the group has arrived at a compromise formula which according to his report enjoyed widespread and substantial support amounting to a conditional consensus and has successfully concluded its mandate.

The principal issue dealt with by the Group and reflected in paragraph 3 of the new draft of Article 296 provides for the submission to a compulsory conciliation procedure of any of the categories of disputes referred to in that article.

Negotiating Group 7 has considered disputes concerning sea boundary delimitations between adjacent and opposite States and although it has not come up with a compromise there has been an exchange of views within the group. According to the Chairman of that group, Judge Manner of Finland, the sub-group dealing with settlement of disputes aspects of the question chaired by Professor L.B. Sohn (United States of America) has produced a paper on possible approaches to a compromise solution. Undoubtedly any provision for the settlement of disputes must necessarily be dependent upon the substantive part of Articles 74 and 83. However this does not preclude us from examining the alternative compromise formulae.

In the circumstances delegations should address themselves to the specific formulations in the compromise text of the Chairman of Negotiating Group 5. On the subject-matter of Negotiating Group 7 delegations should address themselves to the specific concepts on the settlement of disputes provision within the mandate of Negotiating Group 7 in relation to Article 297 (1) (a) of the ICNT.

There are other issues raised in relation to Articles 296 and 297 which have not yet been discussed. This would also apply to the dispute settlement provisions in Part XI of the ICNT dealing with the international area. It will no doubt be necessary to consider this, although perhaps the appropriate time would be later, after the negotiations have proceeded further on the substantive part of Part XI.

Articles 74/83, paragraph 2 and Article 297, sub-paragraph 1 (a)

The discussions on paragraph 2 of Articles 74/83 as well as the related provisions of Article 297, sub-paragraph 1 (a), were still characterized by opposing arguments on the desirability of compulsory dispute settlement procedures. Suggestions were made both as to emphasize the well-established positions and for finding a compromise solution. Despite intensive efforts within the Negotiating Group itself, no solution offering a substantially improved prospect of a consensus could be arrived at. However, a paper setting out a number of alternative approaches relating to sub-paragraph 1 (a) of Article 297 (Disputes to be Excepted from Compulsory Procedure) was issued as a result of discussions held within an informal consultation group led by Professor L.B. Sohn (United States of America). Due to shortage of time it was not possible to submit this document (later distributed as NG7/20) to discussion within the Negotiating Group, but it was hoped that it might offer a useful framework for further discussions on the subject.

Articles 74/83, paragraph 3

There seems to be general agreement to the effect that the Convention should contain a specific provision on interim measures to be applied pending agreement or settlement in delimitation cases. As the question of provisional arrangements, by its very nature, is directly related to the basic criteria of delimitation laid down in paragraph 1, positions adopted thereto were reflected in the discussions on paragraph 3, as well. A fair amount of interest was awarded to certain new suggestions attempting to find a course characterized by some objective elements aimed to regulate the economic and other activities of the States concerned. The discussions on these suggestions remained, however, of preliminary character and did not lead to definite formulations receiving such widespread and substantial support that would offer a substantially improved prospect of a consensus.

Article 74, paragraph 4

With respect to the definition of the equidistance method included in paragraph 4 of Article 74 of the ICNT, but absent from Article 33, it was pointed out that, if such a definition were deemed to be necessary, its proper place would perhaps be with other definitions in Article 1 dealing with the "use of terms" employed in the Convention. The Chairman's view that the matter could be left to the Drafting Committee was not opposed.

Article 74, paragraph 5, Article 33, paragraph 4

No major objections were recorded to these paragraphs which thus could remain unchanged.

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There was a general feeling within the Group that negotiations on the delimitation problems concerned should be continued at a later stage of the Conference and that the rules of delimitation and the settlement of disputes thereon should not be separated from each other.