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COMMUNICATION FROM THE COMMISSION TO THE COUNCIL ON THE THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA

C O N T E N T S

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I. INTRODUCTION

A. INTRODUCTORY REMARKS

1. The fifth session of the Third United Nations Conference on the Law of the Sea was held in New York from 2 August to 17 September 1976. As at previous sessions the Community attended as an observer. In preparation for that session, the Commission had presented to the Council proposals aiming in particular at the adoption of common positions on the main questions being covered by the Conference (see COM(76) 270 final).

At its meetings on 20 and 27 July, 1976, the Council stated its position on a number of those proposals, particularly as regards the inclusion of an "EEC clause" in the future Convention to enable the Community to become a contracting party, the coordination procedures to be followed during the Conference and the definition of a series of common positions on the major questions still remain unresolved.

2. The next session will be held from 23 May to 8 or 15 July 1977 in New York. This Communication to the Council proposes the main guidelines to be followed by the Community during that session, completing or rendering more precise those guidelines already presented on the occasion of the preparation of the last session.

B. OVERALL ASSESSMENT OF THE FIFTH SESSION

1. In order to give an overall assessment of the work of the Conference at its fifth session and of the alternative courses open to it, it is necessary to outline the situation in the three main Committees.

2. Committee I has the task of formulating the regime for the international sea-bed area (i.e. the area beyond 200 miles or the outer edge of the

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continental margin, whichever is the further from the coast) and of establishing the constitution and powers of the international body (the "Authority") under whose auspices the area's mineral resources may be exploited.

Whereas the work of other organs of the Conference has seen the creation of new groups and alliances (essentially coastal states versus land-locked and geographically disadvantaged states), cutting across the standard UN alignment, the discussion in Committee I has been increasingly on ideological lines : the Group of 77 on the one side and the major industrial powers on the other.

At the fifth session, Committee I became deadlocked over the choice to be made in this respect. The Group of 77 considers that the International Sea-Bed Authority should have wide discretion in deciding how sea-bed exploitation should proceed, and that exploitation should normally be carried out through the "Enterprise", the operational arm of the Authority. Such possibility as there would be for other operators to have access to the area would depend on specific decisions of the Authority. In principle there would be recourse to other operators only until the Enterprise had acquired the necessary capacity. As opposed to this approach, the main industrial powers, who alone possess the technological knowhow, insisted that a secure and permanent right of access should be maintained for operators other than the Enterprise, as well as for the Enterprise itself, and that the same conditions should apply to both ("parallel access" system).

Owing to the polarisation of the debate, little if any advance was made at the fifth session, much of the time being taken up in procedural discussions.

3. Committee II has been the major body of the Conference, dealing with the widest range of subjects : the territorial sea, straits, the 200 mile exclusive economic zone, the continental shelf, high seas, archipelagos, islands, and enclosed and semi-enclosed seas. The Committee II text is probably acceptable overall to the majority of delegations. The only group which might oppose its adoption is the group of land-locked and geographically disadvantaged States, but it is by no means sure that this group would push its opposition to an extreme. There are, however, a number of unresolved issues with respect to these topics, the most important of which are:

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- the high-sea status of the economic zone for purposes of navigation;

- the fishing rights of land-locked and geographically disadvantaged States in the economic zones of neighbouring countries;

- the definition of the outer boundary of the continental margin where it extends beyond 200 miles and the possible division of the proceeds of exploitation of the resources of such areas with the international community.

It is possible that the Conference will not be able to provide precise answers to these issues, leaving the final result to State practice (see also below).

4. Committee III is responsible for the texts on preservation of the marine environment, scientific research and the transfer of technology.

There are considerable difficulties with respect to these topics, caused in part by their complex nature (this applies especially as regards the prevention of marine pollution), and in part by the fact that the final outcome will depend on the status of the economic zone and the extent of the rights of coastal States, a matter which is being dealt with by Committee II.

5. To complete the picture it should be added that the Conference, meeting in informal plenary session, discussed the texts on the settlement of disputes. It was here at the fifth session that this question was tackled in an appropriate way for the first time. As far as the settlement of disputes is concerned, the problems are technical as well as political in nature, and the main requirement is time in which to elaborate the detailed solutions which will be needed when the broad lines of the new law of the sea have been agreed.

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6. In broad summary therefore, the results of the Conference to date, may be classified into three groups as follows:

a. areas where the Conference is confronted with a major difficulty, which will have to be overcome if further progress is to be made (Committee I);

b. areas where the texts are largely completed and there is a considerable measure of agreement on the results achieved (Committee II, and, to a lesser extent, Committee III);

c. areas where there has not so far been time to work out broadly agreed texts, but which should not present major problems for the success or failure of the Conference (Committee III, at least in part; the settlement of disputes; preamble and final clauses).

7. The "EEC clause". In the absence of any debate at the Conference on the final clauses, the Community submitted a communication in the form of a letter from the head of the Netherlands Delegation (on behalf of the Presidency) to the President of the Conference, explaining why it was necessary for the Community to become a party to the Convention and putting forward a draft text.

C. EVENTS SINCE THE FIFTH SESSION THAT WILL HAVE AN INFLUENCE ON THE PROGRESS OF THE CONFERENCE

1. Unilateral introduction of 200 mile zones

Since the fifth session a large number of coastal states have decided to extend their fishing limits to 200 nautical miles (or, in certain cases, to establish 200 mile economic zones).

The Community too has been obliged to take that step in order to protect the biological resources off the coasts of its member States from the danger of over-exploitation resulting from the above unilateral extensions of fishing zones. It would be appropriate for the Community to explain the decisions it has taken in this matter to the Conference in a declaration which, in accordance with the usual procedures, would be made by the Commission representative on the basis of a text to be agreed during the coordination.

Most of the countries that have taken unilateral extension measures have related their action to the "law emerging" within Committee II of the Conference. Most of the bilateral fishing agreements recently concluded or in the process of being concluded are based on this emerging law and include, moreover, clauses that provide for the possibility of revision in the light of the conclusions of the Conference on the Law of the Sea. There is no doubt, however, that these extensions have created a new situation that is bound to have a considerable impact on the work of the Conference, particularly on that of Committee II.

2. Informal consultations between the fifth and the sixth sessions

The "Evensen Group" met in Geneva from 28 February to 11 March, this time to discuss subjects covered by Committee I. This meeting, at which the participants were able to talk unofficially and without committing their Governments, showed that there had been a slight change in the attitude of some of the Group of 77 towards acceptance of the system of parallel access. No doubt this was partly in response to the proposals put forward by Dr Kissinger at the fifth session, particularly those relating to the financing of the Enterprise and the review clause (see the section dealing with Committee I).

D. FUTURE GUIDELINES AND PREPARATIONS FOR THE NEXT SESSION

1. The "package deal" concept

Since it has been agreed from the outset that the outcome of the Conference must be a single Convention, acceptable to all the main groups (the "package deal"), there is a risk that unless agreement is reached on all points, and in particular on those where there is the most fundamental disagreement (namely those under discussion in Committee I), there is a risk that the Conference as a whole may break down. The possibility of this occurring will be one of the factors determining the position which governments will adopt at the next session.

It is already certain that between now and the next session many countries will have adopted legislation on the extension of their fishing zones to 200 miles or on the creation of an economic zone. By May, therefore, the 200 mile zone will be a reality, and the task of

the Conference, which has contributed to bringing that system into being, will be to try to specify the limits to the rights which can be exercised in that zone.

Insofar as States may take unilateral action to establish such zones, they do not need a Conference decision before going ahead. What would be lost, therefore, if there were to be no Convention, would be the possibility of setting any clear restraints on what States might claim. Those States which already assert a 200 mile territorial sea would continue to do so. The status of the zone as part of the high seas for purposes of navigation could be seriously affected. This has importance not only for security of commercial navigation but also as regards freedom of movement of naval units - warships and submarines might not be allowed within 200 miles, except when the coastal state gave its permission. If there were a deposit of manganese nodules, say 250 miles off the coast, the nearest State would be tempted to appropriate it. Thus the element of uncertainty as to the law of the sea would be greatly increased and, in the long run, states would be inclined to enlarge both the nature and the extent of their claims. Nor, in the absence of a Convention, would there be any compulsory system for the settlement of disputes, which would be a further casualty.

On the other hand, it becomes less and less evident that certain other major provisions of the RSNT[1] necessarily have to be enshrined in the form of an international Convention, since State practice could achieve the same results, or even achieve results that were more advantageous for the Community.

This could be the case as regards control over fisheries resources. As far as the exploitation of the continental shelf beyond 200 miles is concerned, the Community would be in a more favourable position if it continued to apply the provisions of the 1958 Convention instead of accepting a revenue sharing formula, which may eventually entail quite important transfers to other countries. Finally, the provisions concerning the international sea-bed might be no more advantageous to the Community than would be a situation in which there were no international Convention : as regards its interests as a consumer of copper, cobalt, nickel and manganese, the Community would have an interest in an unfettered expansion of sea-bed production (limited under the RSNT); as

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1) Revised single negotiating text.

a potential producer, it is doubtful whether the provisions of the RSNT would be more advantageous than the absence of control over access : those Community companies which already possess the necessary technology would be in a favourable position, and there is no reason why others should not be able to catch up.

On balance, however, the Community and other developed countries probably have an interest in preventing a failure of the Conference, provided, of course, that satisfactory compromises can be obtained on the outstanding issues. Furthermore, as a general principle of the Community's approach to international relations, it would appear preferable to continue to work towards a Convention, avoiding a free-for-all of incalculable consequences. At the same time, it is necessary to avoid becoming entrapped in a situation where extremist positions, forced upon certain groups at the Conference by a vocal minority, win the day owing to an excessive concern for compromise on the part of other countries.

There is, in this situation, therefore, a balancing of long-term political interests and more immediate economic considerations, of threats and counter threats. It is evident, however, that the outcome will depend to a great extent on the position taken in Committee I over the sea-bed issue and that efforts in the period prior to the next session will need to concentrate in that area.

Although the same has already been said in respect of the last two sessions, it now seems more likely than ever that the next session will either succeed in defining a generally acceptable Convention, or that discussions will be increasingly overtaken by unilateral measures.

2. Adoption of common positions for the next session

It is in the interests of the Community to throw its weight behind the search for an overall negotiated solution which is in accordance with its own interests and is acceptable to the other countries involved. The Community's common positions have aroused considerable interest, and many countries are hoping that the Community will play a moderating role between the extreme points of view.

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Consequently, the Community must adopt common positions on the main problems still unresolved and put them forward as such at the Conference. It is all the more necessary that the Community proceed in this way as, by calling for the inclusion in the future Convention of an "EEC" clause, it clearly demonstrated the powers it holds in the various fields being tackled by the Conference, powers that it is already exercising in practice in negotiating bilateral agreements with third countries. Now that the Community has taken these initiatives, there can be no question of it failing at the Conference to demonstrate its capacity to exercise those powers by presenting common positions.

3. Coordination procedure

Community coordination proceeded relatively satisfactorily at the fifth session and covered all topics before the Conference. Meetings at heads of delegation level were held twice a week and discussed particularly difficult points and tactical questions. Meetings were also held at expert level, in most cases on a regular basis.

As far as on-the-spot coordination and the presentation of common positions at the next session are concerned, the Commission considers that the Council's procedural decision of 4 June 1974 and declaration of 20 July 1976 have helped to improve the procedures followed on-the-spot. However, in order to avoid any ambiguity (which, in any event, could only prejudice the Community's interests), the Commission feels that the member States must in all cases stick to the presentation of agreed positions and, if necessary, avoid adopting any position unilaterally by awaiting, where necessary, the results of the examination carried out in Brussels by the Community authorities. As for the presentation of the positions in fields for which the Community is responsible, it goes without saying that such positions must be put forward through the Commission representative.

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E. CONCLUSIONS

For the reasons set out above, the Commission request the Council to adopt the guidelines submitted for its approval on each of the main outstanding questions referred to below before the beginning of the sixth session on 23 May 1977.

II. THE INTERNATIONAL SEA-BED

(a) Progress at the fifth session and meeting of the Evensen Group

As far as the topic of the international sea-bed area was concerned, the fifth session was dominated by the reluctance of the Group of 77 to proceed to a detailed examination of the RSNT.

However, in the light of subsequent events (see below), it now seems possible that the initiative taken by Dr Kissinger could be the first step towards a general acceptance of the system of parallel access.

Provided that parallel access was secured, the United States was prepared to help in guaranteeing the viability of the Enterprise. Specifically, the United States was willing to help in the financing of the Enterprise, in the transfer of technology to it, and suggested that the Convention might contain a clause permitting review after 25 years (the implication being that after that period, and in the light of "first generation" operations, it might be possible, if everyone agreed, to proceed to a system in which the Enterprise played a larger role).

At the meeting of the Evensen Group held in Geneva from 28 February to 11 March this year, there was a fairly detailed discussion of the main questions outstanding in the field covered by Committee 1. Two key features of Dr Kissinger's proposals were the subject of a detailed memorandum submitted by Mr Castaneda (Mexico), namely the financing of the Enterprise and the review clause. The discussion on these points left the impression that a considerable number of the Group of 77 countries could already accept the system of parallel access, provided that the industrialized countries made an effort to enable the Enterprise to become operational quickly and provided that the system of exploitation provided for in Part I of the future Convention can be subject to review in 20 or 25 years time. The United States representative filled in some of the details in Dr Kissinger's proposals, particularly as regards financing.

Mr Evensen will shortly be forwarding to the delegations proposals for amendments to certain provisions in Part I of the RSNT.

(b) Community coordination

The relatively slow and procedural nature of the discussions aided Community coordination. A series of statements were made "on behalf of the Member States of the European Community". Coordination continued during the meeting of the Evensen Group, at which the statements by the United Kingdom representatives, despite their personal nature (given the informal nature of the meeting), were interpreted as Community positions.

Although the Member States have drawn closer together in their positions, there remain some considerable differences on some issues. This is due, firstly, to the fact that some Member States see themselves as potential operators, while others have a more detached position, and, secondly, to the different degrees of success achieved by the potential sea-bed mining companies in making arrangements with other operators.

(c) Meeting with the ACP countries

It was in the context described above that a request was made to the delegations of the Member States and of the Community by a group of African countries at the end of the fifth session that the Community should hold a meeting in Brussels with the ACP countries in order to discuss the technical aspects of the proposed system for exploitation of sea-bed resources.

A meeting was held in Brussels from 22 to 25 February this year and discussed the following topics:

- the creation and composition of the manganese nodules, which contain significant quantities of nickel, copper, cobalt and manganese, and of the various mining sites;
- recovery of these nodules;
- the separation of the various metals;
- the economic problems involved in the beginning of commercial operations.

The representatives of the ACP countries who attended the seminar seem to have appreciated the complexity of the technical problems, for which the practical solutions are constantly evolving, particularly as regards the pick-up head, which is the basis of the whole operation.

In agreement with the ACP States present, the documents circulated at the seminar were distributed to the participants at the meeting of the Evensen Group in Geneva. The representative of the Group of 77 showed great interest in all the technical data but showed a certain amount of scepticism with regard to the financial data.

(d) Main outstanding issues and proposed guidelines for the next session of the Conference

A number of key questions will have to be examined in detail at the sixth session if a satisfactory overall solution is to be reached:

(i) the system for the exploitation of the sea-bed;

(ii) the policy of resources;

(iii) the review clause;

(iv) financing;

(v) Community participation in the Authority, the decision-making system within the Authority;

(vi) the anti-monopoly clause.

It is increasingly evident that the Community can and must play an important rcle in the establishment of this overall solution. The Commission therefore proposes that the Council adopt the following guidelines on the issues listed above.

However, in the absence of fuller information on the propsoals for amendments being prepared by Mr Evensen, the Commission reserves the right to return to anygiven point in the light of the content of those proposals.

(i) The system for the exploitation of the sea-bed area

(Articles 22 and 23 of the RSNT and Articles 7 and 8 of Annex I)

As already stated above (in the context of the description of the meeting of the Evensen Group), a number of members of the Group of 77, after previously restating their preference for a unitary system in which the Authority would have entire responsibility for the exploitation of the sea-bed area, now seem to accept that the Enterprise would have neither the technical know-how or the financial status required to begin exploitation alone. Recourse to a "mixed system" now seems inevitable to them, but on condition that the Convention contains provisions enabling the Enterprise to acquire its own finds that are adequate to enable it to exploit the resources in the areas reserved for the Authority and provided that a review of the system is possible.

Though some acceptance of the parallel system seems to be a possibility at the next session, the problem of the powers of the Authority over that part of the area which would be reserved for the States and/or their firms will have to be studied in detail in order to avoid having an Authority that is excessively interventionist in the signing of contracts (which was still the position put forward in the document of 3 March distributed by a number of developing countries to the Evensen Group) or again an Authority that was too discriminatory.

The analysis made by Doctor Lauterpacht (Australia) in another document distributed to the Evensen Group is particularly interesting from this viewpoint since it tries to make the presentation of Articles 8 and 8a of Annex I as drafted by Mr Evensen more coherent by differentiating between "objective" questions and questions that need to be negotiated. Steps must be taken to avoid an excessively long time-lag between the application by an operator and the beginning of contract negotiations which would give competitors an opportunity to make an application in competition with the initial application.

The Member States and other developed countries have stressed moreover that the exploitation of the sea-bed is a risky technological operation, which calls for the gathering together of unrivalled technical skills and involves a very large investment. This exploitation will not necessarily prove to be a "gold mine" which the industrialized States want to keep for themselves to the detriment of the developing countries. It is necessary to devise conditions of exploitation that attract industry rather than threaten it with a large number of financial burdens that are left to the discretion of the Authority and are applied on the basis of the quantity of nodules extracted, without taking account of the financial situation of the industry in question.

Subject to any amendments that might be suggested by the text being drafted by Mr Evensen, the Commission proposes that the Council adopt guidelines for the nest session based on:

- its support for the parallel system (which for the Community is already a compromise solution), possibly accompanied by acceptance of the United States proposal for the "banking system";

- the importance of establishing negotiating conditions between the Authority and an operator on reasonable and commercial bases, without the introduction of any element of discrimination;

- the need to ensure that the Authority cannot "freeze" the part of the area reserved for it and to ensure that it would be obliged, after a period to be fixed, to return that part to the general system of exploitation if it had not begun operations itself.

The Commission therfore recommends that the Member States should continue to put forward common positions reflecting the Council Decision of July 1976 on the acceptance of the principle of the Enterprise, subject to the establishment of a system ruling out any privileged treatment for that body and guaranteeing acceptable economic conditions for all firms, whether private or belonging to the Member States.

(ii) Resources policy

Two interlocking issues are involved under this heading: the need to establish in the Convention the overall rate at which the area might be developed, and measures to protect the interests of developing countries which are land producers of the minerals (see Article 9 of Part I of the RSNT).

There is scarcely any need to insist on the fact that it is essential for the Community to obtain sufficiently advantageous arrangements here. As a major importer of the four metals in question, the Community could not accept an arbitrary limitation of the rate at which the sea-bed resources were worked. At the same time, however, it should also be prepared to subscribe to provisions to prevent negative consequences for developing countries that are land producers of these same metals, in particular by the application of a formula for the maximum increase in the area's production, and by the conclusion of appropriate product agreements.

Consequently, the Commission proposes that the Council adopt the following gudielines on this subject:

(a) the general principles laid down in Article 9 of Part I of the RSNT are acceptable to the Community as one aspect of an overall solution;

(b) any amendment liable to make those principles more restrictive would have to be rejected;

(c) however, the Community could agree to consider the rate of increase in the production of the area (defined in relation to the rate of increase in the world demand for nickel) of 6% (see paragraph 21 of Annex I to Part I of the RSNT) as a maximum and not as a floor level.

(iii) The review clause

The importance of the content of any review clause threatens to be considerable, particularly in the eyes of the developing countries. The document put forward on this subject by Mr Castaneda at the meeting of the Evensen Group aroused great interest. His main proposals are as follows:

- a general and systematic review of the operation of the system applied in the international sea-bed area every five years;

- the convocation of a review conference twenty years after the entry into force of the Convention to assess whether it has achieved its objectives. Those objectives include the fair distribution of the resources of the area, compliance with the provisions relating to the resources policy, the benefits of the system for the developing countries, the economic balance between the areas reserved for the Authority and those exploited by the States or their nationals;

- in any event, should the review conference decide to amend Part I of the Convention, certain basic principles should remain, in particular that of the common heritage of mankind and the role of the Authority;

- the review conference would decide its own procedures (including its voting procedures).

These proposals enjoyed the general support of the developing countries, but there were also many that stressed the need to avoid the possibility of an obstructive attitude with regard to any amendments on the part of certain countries at the review conference enabling the [parallel] system to continue ad infinitum.

The Community's interests in this matter seem fairly clear: in order to permit a satisfactory development of the exploitation of the area the companies will need a considerable degree of certainty with regard to the system applicable; in addition, the Community will also have to be on its guard against decision-making procedures which would enable certain groups to impose their will at the review conference.

For these reasons, the Commission proposes that the Council adopt the following guidelines:

(a) frequent periodical reviews should be opposed; the appropriate framework for an ongoing assessment of the exploitation of the area is the Authority;

(b) the review conference should be called only after the area has been under commercial exploitation for 25 years;

(c) the review should under no circumstances affect contracts in force;

(d) the procedures (particularly for voting) must protect the interests of all the groups;

(e) all options must remain open for the review conference.

However, it seems appropriate to accept that the present Conference should decide now that the idea of the common heritage of mankind must not be called into question at the review conference. In a completely different context, the Community could declare that the approach to the review should not provide a pretext for slowing down the rate of exploitation of the area, for example by slowing down the conclusion of contracts.

(iv) Financing of the Enterprise

The Group of 77 is calling for the financing of the Enterprise to make it operational as soon as possible in return for the adoption, even on a temporary basis, of the parallel system. In order to meet this wish, the Community could envisage two types of solution (which are not mutually exclusive).

1. The adequate financing of the Enterprise in order to give it complete freedom of operation for the exploitation of a first mining site. However, the principles put forward by the United States in Mr Richardson's statement to the Evensen Group are fairly restrictive:

- the profits of the initial operation, and the Authority's other financial income, must enable the Enterprise to develop other of the Authority's sites with its own funds;

- the financing from the States is largely in the form of guarantees for the loans which the Enterprise must obtain on the international market to cover the initial investment expenditure (commercial sources and international financial authorities);

- the Enterprise will have to pay for its own debt servicing;

- the control of the financial programme of the Enterprise would probably be entrusted to the World Bank;

- the Enterprise must pay for exploitation technology, since this technology is constantly developing and being improved.

The development of a viable Enterprise under the above hypothesis does not seem at first sight to be entirely guaranteed, both because of the present difficulty in finding a partner which will agree to transfer the exploitation technology and because of the difficulty in rapidly collecting together the necessary funds to launch a second operation a reasonable time after the first (unless there is a spectacular rise in metal prices).

2. Alternatively, the Enterprise could be made operational by the conclusion of service contracts or by the creation of joint undertakings, without the transfer of technology and leaving the private operators responsible for bringing together the capital needed for commercial exploitation.

That solution would enable the Authority to put together considerable funds which could be used either as aid for the poorest developing countries (in a form to be determined) or in order to give the Enterprise greater chances of success.

In view of the complex and delicate nature of this question, the Commission proposes that it should be examined in detail by the experts before the next session to enable the Member States to adopt common positions.

(v) Community participation in the Authority; the decision-making system within the Authority

The question of the Community's participation in the International Sea-Bed Authority has been referred to in detail by the Commission on a number of occasions (see COM(76)270 final and the Commission staff paper of 12 January this year SEC(77)198). This Communication will therefore limit itself to setting out the main proposals put forward in the above two texts.

1. Introduction

As a contracting party to the future Law of the Sea Convention, the Community will also be a mumber of the Authority. The decision adopted by the Council on 20 July 1976 relating to Community representation in the organs of the Authority is based on that assumption, which also follows from the Revised Single Negotiating Text, Article 20 of which stipulates that "All States parties to this Convention are ipso facto members of the Authority".

Of course, the "EEC clause" put forward by the Community at the fifth session of the Conference does not expressly provide for the assimilation of "customs unions, communities and other regional economic groupings" to States for the purposes of the Convention, but the assumption remains that all references in the Convention to "States" or "States parties" are to be deemed applicable where appropriate to non-State parties. The removal of any ambiguity is a matter for the final drafting.

2. The Assembly

Article 25 of the RSNT (Part I) provides that all membrs of the Authority are members of the Assembly. The Community would accordingly be a member of the Assembly and be able to participate in its work. Since, as the RSNT stands, each member of the Assembly has one vote, the criticism could therefore be made that the Community and its Member States were gaining an extra vote through Community participation (i.e. one as individual members and one for the Community). The Commission is therfore proposing that a clause be inserted providing that,

in the case of non-State parties, these shall not have a vote of their own but that the votes of their Member States may be cast collectively.

A provision will also be required in respect of the financial contributions to be made by parties other than States. Since discussion of the financial arrangements of the Authority has not yet led to a developed, and generally acceptable result, it is difficult to put forward specific proposals at this stage. It is suggested that, for the present, two guiding principles should be adopted in this matter: firstly, the principle of no double payment, and secondly that the contributions to be made by non-State parties should be limited to a share of administrative expenses (without prejudice to the possibility of voluntary contributions).

21. The Council

In its decision of 20 July 1976, the Council came out in favour of Community representation in the Council of the Sea-Bed Authority. The reasons why the Commission considers that representation of the Community in the Council would have advantages over separate participation by Member States have already been set out in detail in Docs. COM(76)270 final and SEC(77)198.

It is not certain that the Community could appear as an entity in a Council of 36 members in which the Member States would occupy only three or four seats, the permanent nature of which would not be guaranteed. On the other hand, a vote expressed by a single Community voice would have more weight than the votes of a number of Member States, particularly in the context of a weighted system based on imports or consumtpion. Along the lines already established by the Council decision of 20 July 1976, the Community could show its support for the proposal put forward unofficially by the United States under which the decisions of the Council of the Authority would require the affirmative votes of contracting parties totalling 50% of the value of consumption and production.

Such an arrangement would help to provide effective protectionfor the Community's interests, given that the Community is one of the major consumers of the metals in question, perhaps even the number-one consumer[1].

Once the 50% rule is adopted, the other voting arrangements and the distribution of seats in the Council would be of less importance.

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[1] According to the calculations of the Commission staff, the Community received 53% of average imports by value of the four minerals in question (nickel, manganese, copper and cobalt) during the period 1972-74, compared with 25% for Japan and 15% for the United States.

(vi) Anti-monopoly clause

At the Council meetings on 20 and 27 July 1976, the Council considered that "during the negotiations the Member States should be ready to cooperate in studying proposals for preventing the emergence of monopolies or dominant positions. However, their acceptance of such provisions must not be such that it can adversely affect Community undertakings or be used against the Community as such" (see I/271/76).

The Commission considers that the above position should be maintained at the sixth session.

III. THE ECONOMIC ZONE AND THE CONTINENTAL SHELF

(i) Developments at the Fifth Session; Community coordination

Five negotiating groups were set up at the Fifth Session under the auspices of Committee II to consider, respectively, the legal status of and rights and duties of States in the economic zone, transit rights of land-locked states, the definition of the outer margin of the continental shelf and revenue sharing in respect of the exploitation of the continental shelf beyond 200 miles, the régime applicable to straits and delimitation questions.

As was indicated in the Introduction to the present Communication, questions related to the economic zone may be considered to be amongst those where a large degree of agreement exists in respect of the provision of the RSNT (Part II). This impression was confirmed at the Fifth Session where further progress was made on several of the points mentioned above.

Coordination meetings were held regularly. Official meetings in the negotiating groups were often replaced by unofficial consultations where not all member States, nor the Commission were admitted. The Presidency, however, was systematically present in such groups where it could present the Community view point, and it kept other member States and the Commission regularly informed of the proceedings at coordination meetings Although this procedure may have certain practical advantages, it is far from being completely satisfactory. If such unofficial or restricted meetings were once again to become prevalent at the next session, it would seem reasonable (and necessary from the point of view of adequate Community representation) that at least the Presidency and the Commission be admitted to such groups.

(ii) Major outstanding issues

The major outstanding issues which have not yet been resolved concern the status of the economic zone, certain fishery issues and in particular LL and GDS fishing rights, and the definition of the outer margin of the continental shelf and revenue sharing.

The Commission proposes that the Council adopt the guidelines in respect of these topics summarised in the following sections.

A. THE STATUS OF THE ECONOMIC ZONE

(1) Principle of the establishment of the economic zone and its general characteristics

The Single Negotiating Text establishes the principle of the introduction of economic zones of 200 miles measured from the base lines used to determine the width of territorial waters.

It lays down (Article 44) that in this zone the coastal states shall have "sovereign rights" in respect of exploration and exploitation of natural resources, "exclusive jurisdiction" as regards scientific research and "jurisdiction" as regards the preservation of the marine environment. Furthermore, all states, whether coastal states or not, shall have freedom of navigation and overflight and the freedom to lay underwater cables and pipelines in the economic zone and to use the sea for other internationally lawful purposes relating to navigation and communications (Article 46).

During the Conference debates which they prompted, these provisions have on the whole received the support of the coastal states. There are, however, reservations on the part of the land-locked and geographically disadvantaged states which, whilst not opposing the actual principle of the establishment of the zone, would like to reduce its extent and the exclusivity of the rights which the coastal states would exercice over it.

Member States, acting in coordination, have at previous sessions tabled amendments to the Single Negotiating Text with the aim of improving the cohesion between the general definition of the rights and obligations of the coastal state and the definition contained elsewhere in the Single Negotiating Text as regards the extent of rights and obligations in specific areas and of making it clearer that, insofar as the economic zone is not covered by special rules, it will remain an integral part of the high seas and will thus be subject to the corresponding provisions.

Although they were supported by other maritime powers (United States, Japan, USSR) anxious to safeguard the freedom of navigation in the economic zone, these amendments proposed by the Member States were not included in the Revised Single Negotiating Text which reproduces the original Single Text virtually unchanged and with the same ambiguities.

(ii) Developments at the Fifth Session

The main question which was examined in this context was that of the status of the economic zone for purposes of navigation. Certain proposals were made at the Fifth Session to modify relevant articles of the RSNT. The result of these modifications would, in most cases, be to strengthen the sui generis nature of the economic zone.

(iii) Proposed guidelines for the coming Session

The Community should not relax its efforts to secure the acceptance of suitable amendments at the next session of the Conference, all the more so as it has the backing of other influential countries (in particular the United States and the USSR). The Commission does not consider it opportune to accompany this proposal with more detailed guidelines, in view of the necessity of allowing for sufficient flexibility of negotiation and drafting at the Sixth Session.

B. LIVING RESOURCES

(i) **Fifth session. The discussion at the Fifth session of the articles on living resources followed broadly the same lines as at the 1976 spring session without any major development occurring [1]. The texts concerned have thus remained virutally unchanged since they were prepared in spring 1975. Having regard to the general level of acceptance of the articles at the Conference, and the steps taken by coastal states to establish 200 mile fishing zones reflecting the provisions of the RSNT, the texts in question can be regarded as representing an emerging consensus, already endorsed by state practice.**

The main issue at the Fifth session in this area concerned the efforts made to change the texts relating to the rights of land-locked and geographically disadvantaged states, so as to provide these states with a privileged position as regards access to the zones of other states and in the distribution of surplus. The compromise texts that were produced proved unacceptable to members of the coastal states group and were considered insufficient by the land-locked and geographically disadvantaged group. The existing articles 58 and 59 were therefore left unchanged.

At the 1976 spring session an amendment was introduced by Denmark to strengthen the references to fisheries coordination in the present Article 130; at the same time an amendment was proposed on behalf of the member States to the present Article 129 in order to make it clear that the provisions on enclosed and semi-enclosed seas would not be applicable to the North Sea. These amendments did not receive wide support at the Conference although the article now numbered 130 was modified so as to make the obligation less stringent.

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1) **The relevant texts in the Revised Single Negotiating Text were taken over from the earlier Single Negotiating Text with little or no change. For a summary of the provisions see the Commission's communication to the Council of June 1976 (COM(76)270 final).**

(ii) Community coordination and amendments. In the course of the Fifth session the Netherlands delegate, as the representative of the State acting as President, recalled on behalf of the Member States the amendments which had previously been proposed. The decision not to intervene in the discussion on the provisions relating to land-locked and geographically disadvantaged states (thereby indicating, under the procedures followed by the Conference, support for these articles as they stand) was maintained.

(iii) Guidelines

The amendments which were submitted on behalf of the Community were drawn up prior to the 1976 spring session. The modifications which were previously agreed upon need therefore to be reviewed in the light of the discussions at the Conference and, more particularly, having regard to the positions taken by the Community during the bilateral fisheries negotiations. Those negotiations, conducted in conformity with the directives given by the Council, have brought out the importance for the Community, under the 200 mile system, of maintaining full control as a coastal state over resources within Community waters, subject to the entry into reciprocal or other arrangements on a directly negotiated basis. The position so far taken with respect to the provisions on land-locked and geographically disadvantaged states, namely to support the existing articles, should be maintained; although minor modifications could be made, substantive changes in these articles in the direction sought by the group in question would not be to the advantage of the Community.

The institution of enclosed and semi-enclosed seas as areas having to some degree a special status has disadvantages from the general standpoint of the Community. Assuming that it would not be possible to delete Articles 129 and 130 entirely, in view of the support they enjoy at the Conference, the best course would be to leave the articles as they stand. The particular preoccupations relating to fishing in enclosed and semi-enclosed sea can best be dealt with through bilateral Community arrangements.

C. THE CONTINENTAL SHELF

(i) Developments at the Fifth Session

Two main issues under this heading were discussed at the Fifth Session, i.e., the definition of the outer edge of the Continental margin and the sharing of revenue derived from the exploitation of the continental shelf beyond 200 miles.

a) Outer edge of the continental margin

The Irish proposal concerning the definition of the outer edge of the continental margin, received support from most wide-margin States while it was more or less generally criticized by certain other countries (especially LL[1] and GDS)[2]. A certain number of important questions were raised which would need further expert scrutiny, also within the context of the Community preparation of the sixth session. In this context it would be particularly important to clarify the practical implications of the application of the Irish formula, especially as regards the shelves of member States, and to examine the extent to which it could be possible to modify certain of its components in order to prepare a compromise solution.

In any event, it is evident that a possible compromise on this issue at the next session hinges on the definition of a generally acceptable formula on revenue sharing, the latter being the crucial factor.

b) Revenue sharing

A considerable time was spent on this issue, which essentially revolves around the question as to whether coastal States shall share revenues arising out of the exploitation of the continental shelf beyond 200 miles. A proposal to this effect is contained in Article 70 of RSNT. It is recalled that it was not possible to establish a common position on this issue in time for the fifth session. Since this is probably the most important outstanding issue of principle remaining in the context of Committee II, it appears vital that member States arrive at a common position (see below).

The debates showed very clearly that LL and GDS would only accept coastal states' rights on the continental margin beyond 200 miles if a favourable system of revenue sharing were elaborated. Most coastal States seem to be coming round to such a solution.

The Chairman's summing up of the "emerging consensus" was widely accepted as a fair description of the present state of discussions:

i) A system of revenue sharing should accompany the extension of the margin beyond 200 miles.

ii) The system should be based on gross revenue.

.../...

1) Land-locked States.
2) Geographically disadvantaged States.

iii) The US proposal for percentages was the minimum acceptable. If these percentages were reduced, the period of grace should be shortened. The percentages should be liable to variation, either up or down in the light of experience when production is achieved, by whatever organisation was involved, so as to ensure the commercial viability of exploitation.

iv) The circumstances of developing countries should be taken into account to an extent to be decided by whatever organisation was involved.

v) Developing States should benefit the most, particularly the landlocked. Detailed rules should not be included in the Convention but should be left to whatever organisation was involved.

vi) A role for the International Authority was unavoidable but it would be simple to guarantee that contributions would not be used for the benefit of the Authority.

(ii) Proposed guidelines for the next session of the Conference

As recorded above, the Council decided at its session on 27 July 1976 on the common position that the continental shelf may be extended beyond 200 miles as far as the edge of the outer margin. On the question of revenue sharing, it did not consider it indispensable at the time to take position on this issue; it was noted, however, that no delegation had difficulties of principle as to sharing revenues from the shelf beyond 200 miles, and the follow-up of the question was left to coordination on the spot (cf. docs. I(271)76 and R/549/77).

The moment seems to have arrived when the Community must adopt clear, common positions on the various outstanding questions of substance in the context of the continental shelf issue. Substantial Community interests are at stake, and the question of the régime applicable to the continental shelf outside 200 miles is crucial to the composition and success of the package deal.

The proposed guidelines submitted by the Commission to the Council in June 1976 (cf. doc. COM(76)270 final) remain valid, as an expression of general policy. Nevertheless, the Commission now wishes to render these proposals more precise, especially in the light of the developments at the Fifth Session. It therefore proposes that the Council adopt the following guidelines for the coming session:

- the experts of the Commission and the member States shall continue to elaborate common positions in respect of the definition of the margin beyond 200 miles based on the Irish proposals to that effect.
- the Community should accept a reasonable system of revenue sharing provided that such a system would not imply financial charges liable to slow down the extraction of resources. The basis for the calculation of the revenue sharing should be gross value, the maximum percentage to be fixed in the Convention. (The precise figure would be an element to be determined in the light of the rest of the package). A grace period of at least five years should be an essential feature of the system.

- developing countries should contribute towards revenue sharing, except those with special characteristics (e.g. the least developed), the details to be determined by the international organisation involved (e.g. the Authority).

- least developed, LL and GDS developing countries would be the main beneficiaries, the rest going to other developing countries.

- a specific role could be granted to the Authority for the distribution of the funds.

IV. A. PROTECTION OF THE MARINE ENVIRONMENT

(i) Progress made at the fifth session

Since the session in Geneva in 1975 the Conference has given up the idea of drafting operational provisions for the protection of the marine environment since it is of the opinion that action against pollution is or should be conducted under specific conventions and that the Convention must do more than define the rights and obligations of States with regard to protection of the marine environment, particularly in the territorial sea and economic zone.

At the fifth session the Conference examined in detail the provisions of Part III on protection of the marine environment. The vast majority of the participants considered that Part III of the RSNT was, despite its shortcomings, a fair basis for negotiation. The discussions in particular made it possible for the respective positions to be clarified through detailed examination of the provision of the RSNT.

(ii) Community coordination

Coordination has improved compared with the previous sessions. However, there is still room for progress in this area. It should be pointed out that the main difficulty encountered results from the fact that certain member States prefer, in this field, to coordinate their positions within the Group of 17 (maritime powers). This situation, even though there may be reason to hope that it is changing, is not acceptable - either to the Community or to the member States which are not part of the Group of 17. For the various reasons referred to in the introduction to this Communication the Commission proposes that the Council improve and strengthen coordination procedures and those for presenting coordinated positions in the field of protection of the marine environment as well.

.../...

(iii) As stated in the introduction to this Communication, protection of the marine environment is one of the sectors where the Conference will have to make considerable effort to arrive at compromises in the near future. This is due to both the complexity of the subject and the fact that ocean pollution by ships is often a pretext for exercising competence in the territorial sea and in the economic zone. In its Communication to the Council of June 1976 (COM(76) 270 final), the Commission has already presented a detailed description of the provisions of the RSNT and of the positions of the various groups of countries. For the sixth session it proposes that the Council adopt fairly general guidelines:

(a) Provisions concerning innocent passage (Part II, Article 20)

One should oppose that the freedom of navigation be prejudiced for reasons concerning the design, construction, manning and equipment of ships and support proposals which would give to international organisations the task of defining international standards in this field;

(b) Dumping of waste at sea (Part III, Article 20)

Proposals should be supported which permit coastal States to control dumping in the territorial sea and economic zone in accordance with international (regional) rules which do not prejudic the freedom of navigation;

(c) Special Zone (Article 21.5)

The creation of a special zone should correspond to oceanographic and ecological criteria and to particular characteristics of pollution threatening these zones and which, therefore, call for the adoption of more stringent obligatory measures.

For these reasons, the definition of a special zone should be an exceptional measure requiring international consensus and proposals permitting the transformation of the economic zone into a special zone should be opposed.

.../...

(d) Competence of the Port State - right of enquiry (Article 28.1)

In the perspective of extending to the Community level the means of action of member States in respect of controlling infringements against international conventions on vessel pollution and of permitting a better cooperation between Port States and between these States and flag States, it would be preferable to maintain the RSNT text (Article 28.1) as amended by the Vallarta Group;

(e) Competence of the Port State - transfer of enquiries (Article 28.2)

The proposal arrived at during member State coordination meetings concerning the transfer of enquiries should be supported, i.e. that the enquiry initiated by the Port State in which the vessel is found shall be transferred to the Flag State or to the Coastal State in whose jurisdiction the infringement was committed, at the request of these countries;

(f) Competence of the Port State - right to retain a vessel (Article 29)

The obligation to release a vessel should be added to the RSNT text;

(g) Rights of the Coastal State with regard to infringements committed in its economic zone (Article 30.6)

The right of the coastal State to intervene in the event of flagrant violation by a ship of international rules may be accepted provided that the exercise of this right is combined with adequate guarantees for the freedom of navigation;

(h) Competence of the Flag State (Article 38)

It is necessary to defend the principle of priority of competence of the Flag State, account being taken, however, of the need to safeguard the legitimate interests of the Coastal States. The conditions and modalities under which a Coastal State can or shall start proceedings against a vessel which has committed an infringement against international rules should, therefore, be renderred more precise.

.../...

IV. B. MARINE SCIENTIFIC RESEARCH

1. ASSESSMENT OF THE FIFTH SESSION OF THE CONFERENCE

Although there were encouraging elements such as the moderate role played by Mexico and the Australian compromise proposal on the one hand, and a greater degree of internal co-ordination of the Nine on the other, the general view of the Member States was that the outcome of the Fifth session was disappointing.

Negotiations were concentrated on the key issue of the regime for the conduct of marine scientific research and the question of consent in the economic zone or on the continental shelf of a coastal state. Article 60 of the RSNT was at the core of the discussions since it was felt that a breakthrough there was necessary before progress could be made on other issues. Substantial discussions on other articles did not take place.

Negotiations were conducted in informal meetings of the Third Committee in which all Member States participated and in a special negotiating group (USA, USSR, Fed. Republic of Germany, France, United Kingdom, Spain, Columbia, Peru, Brazil, Kenya, Tanzania, Norway) where the three main trends were represented, i.e. : the adherents of a "full" consent regime, of a "qualified" consent regime, and those opposed to the principle of consent.

When it became apparent that discussions were only furthering the division between the existing trends, Chairman Yankov presented a compromise text for Article 60 which he based on the premise that it was only realistic to accept the principle of consent and to make it subject to some exceptions and conditions as guarantees to the Researching State.

This compromise remained unacceptable to those countries opposed to its basic premise of consent. As well as the USA, this group included three Member States (United Kingdom, Netherlands, Germany).

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No agreement or compromise text was achieved at this session. Those researching States who continued to oppose the "consent" principle felt that the issues of consent and its modalities could not be agreed upon in isolation from the other issues at the Conference notably the character of the economic zone and dispute-settlement. Furthermore, they argued that negotiations on Article 60 could not proceed in isolation from the other related articles of the RSNT, i.e. Article 64 allowing for "tacit" consent and Article 76 providing for dispute-settlement. A large number of the "Group of 77" made it clear that "tacit consent" and dispute-settlement were a dilution of the "consent" principle and would be strongly opposed by them in future negotiations.

Chairman Yankov's attempts to find a compromise formula encouraged those in favour of a "qualified" consent regime to draft another version of Article 60 acceptable to moderates from among coastal and researching States so as to keep the negotiations going. An attempt by its author Australia to have this proposal included in the formal records of the session failed due to the opposition of the extremists from among the "Group of 77".

2. Community coordination

At the beginning of the session, the French delegation declared that as a result of drafting their economic zone legislation they had found the distinction between different types of MSR very hard to apply, and were now in favour of a consent regime for all types of MSR.

However, the Heads of Delegations agreed that the common approach previously agreed upon in Brussels should be maintained at the present stage of the negotiations and agreed to study the French position and to consider the adjustment of the common approach if advisable. France did not actively participate in the negotiations at this session, but did not oppose the common approach of other Community countries.

Towards the end of the Conference, this common approach came under certain strains largely as a result of varying degrees of support for the Australian compromise. Only the Federal Republic of Germany and the Netherlands opposed it on the grounds that it embodied the principle of consent and was little different from the RSNT or chairman's test proposal. However, the other member States carefully made it clear that their support for any qualified consent proposal is conditional on having tacit consent and compulsory dispute-settlement procedures in any future regime.

3. Guidelines for the Sixth Session

It is certain that discussion in this Committee will continue to focus on the consent principle and in particular the precise formulation of Article 60. In preparation for this, experts from the member States and the Commission have held a series of coordination meetings to examine the implications for MSR and where possible what could be the Community approach for the next session. In preparing its guidelines for the Council, the Commission has taken account of these discussions and proposes that :

1) The Community must continue to press for adequate safeguards for researching States in the conduct and promotion of MSR. Whilst the formulation of Article 60 as proposed by the Australian delegation is not wholly satisfactory it could serve as the basis of an acceptable text.

.../...

2) Any acceptance of the principle of a consent regime in Article 60 must depend on the retention of the principles as set out in Articles 64 and 65 of the RSNT. These articles ensure that the terms of consent are reasonable and in particular it is considered essential to retain the idea of "tacit" consent as set out in Article 64 of the RSNT thereby minimising the cumbersome procedures that might inhibit MSR.

3) The Community must continue to press for some form of quick procedure for settling disputes over marine scientific research. In this respect Article 76 of the RSNT could form the basis of an acceptable procedure.

4) The Community should continue to support efforts to develop and transfer the benefits of marine technology in the field of MSR to the developing countries.

V. SETTLEMENT OF DISPUTES

(i) Introduction

Considerable efforts have been made at the Conference, in particular by the developed countries, to include a system for the compulsory settlement of disputes in the future Convention. The original proposals put forward in 1975 were, however, extremely complex, offering parties a choice between four main procedures:

- the Law of the Sea Tribunal (a permanent body)
- the International Court of Justice
- arbitral proceedings (a statute being provided for ad hoc arbitral bodies)
- special procedures for disputes concerning fisheries, pollution, scientific research and navigation (involving the use of experts chosen from lists maintained by specialized organs of the UN).

It was proposed that, in cases where the parties had not chosen the same means of settlement, the defendant would have the choice as to the procedure to be used. [1)]

In the Commission's communication to the Council in June 1976 (COM(76)270 final), it was suggested that it would be preferable if arbitration could be made the common factor of the system, to be used where the parties had not chosen the same procedure or did not agree to a particular means of settlement. The Council, in its decision of 17 July, agreed that a system for the compulsory settlement of disputes should be included in the future Convention.

(ii) Developments at the Fifth Session

The Revised Single Negotiating Text (Part IV) on the settlement of disputes, which was issued following the discussions at the fifth session, contains a number of improvements over the earlier version. Some of the details of the procedures have been simplified and arbitration has been

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1) For an analysis of the articles of the Single Negotiating Text, see the Commission's communication to the Council of June 1976 (COM(76)270 final).

made the common element of the system when other means are lacking. If the parties have not accepted the same procedure, the party initiating proceedings may submit the dispute either to one of the procedures chosen by the other party or to arbitration. The text still remains relatively complex however, in particular in the range of possible defences or exceptions which are available to a defendant.

(iii) Community coordination. Community coordination proceeded satisfactorily during the fifth session. It was owing in considerable measure to the efforts of delegations of Member States that improvements were made in the RSNT.

(iv) Guidelines for the coming session

It is proposed that Member States should continue their support for the incorporation in the Convention of a system for the compulsory settlement of disputes. The approach taken in the RSNT of making arbitration the common factor when the parties have not chosen the same procedure should be maintained. It would be desirable, however, to take further steps to clarify the text and to simplify the procedural arrangements.

The consequences as regards the system of disputes settlement of Community participation in the future Convention should continue to be borne in mind.

SUMMARY OF THE GUIDELINES PROPOSED IN THIS COMMUNICATION

N.B. : The proposals already adopted in whole or in part by the Council on 20 and 27 July 1976 (see I/271/76 and R/549/76) are marked with an asterisk

I. THE INTERNATIONAL SEA-BED AREA
(cf. pages 10 to 22)

- Commitment to the parallel system, possibly accompanied by acceptance of the "banking system" (cf. page 14);

- Establishment of negotiating conditions between the Authority and operators on commercial and non-discriminatory bases (cf. page 14);

- Return of part of the area reserved for the Authority to the general system of exploitation after a period to be fixed, in the event of this area not being exploited by the Authority (cf. page 14);

(*) - Presentation of common positions on the acceptance of the principle of the Enterprise, subject to the establishment of a system excluding any special treatment for that body and guaranteeing all firms, whether private or belonging to the member States, acceptable economic conditions (cf. page 14);

- Acceptance of the general principles of the RSNT on the subject of the resources policy (cf. page 15);

- Opposition to any change in the principles governing the resources policy designed to make that policy more restrictive (cf. page 15);

- Adoption of an open attitude on the definition of the rate of increase in the production of the area (6%) as a minimum or maximum (cf. page 15)

- Opposition to periodical reviews at frequent intervals of Part I of the RSNT (cf. page 16);

- Acceptance of the principle of the convocation of a review conferenc after the area has been in commercial exploitation for 25 years (cf. page 17);

- Opposition to any question of the review being able to affect contracts already in force (cf. page 17);

.../...

- Protection of the interests of all the groups via the definition of appropriate voting procedures for the review conference (cf. page 17);

- Adoption of common positions with regard to the financing of the Enterprise (cf. pages 18 and 19);

(*) - Continuation of the efforts to achieve Community participation in the Assembly and Council of the Authority (cf. page 20); to that end, definition of appropriate voting arrangements and financial contributions (cf. pages 20 and 21);

- Acceptance of a weighted voting system in the Council of the Authority based on imports or consumption (cf. page 21);

(*) - Search for solutions to avoid the emergence of monopoly situations or dominant positions (cf. page 22).

II. THE ECONOMIC ZONE AND THE CONTINENTAL SHELF
(cf. pages 23 to 30)

- Acceptance of modifications enabling the sui generis nature of the economic zone to be strengthened (cf. page 25);

- Review of the amendments proposed by the Community regarding the provisions of the RSNT on the biological resources of the sea in the light of the way the situation has developed since the last session (cf. page 27);

(*) - Preparation of a common position on the definition of the margin of the continental shelf outside 200 miles (cf. page 29);

(*) - Acceptance of a reasonable system for sharing income derived from exploitation of the continental shelf outside 200 miles, provided that such a system does not involve financial charges which might slow down the exploitation of such resources (cf. page 29);

- Exemption for certain developing countries (e.g. the least developed) from contributing to the system for sharing income (cf. page 30);

- Allocation of the bulk of the funds derived from the sharing of income to the least developed landlocked and geographically disadvantaged countries; assignment of a specific role to the Authority for the distribution of these funds (cf. page 30);

.../...

III. PROTECTION OF THE MARINE ENVIRONMENT
(cf. pages 31, 32 and 32 bis)

- Opposition to attempts at prejudicing the freedom of navigation for reasons concerning the design, construction, manning and equipment of vessels; support proposals which would give to international organisations the task of defining international standards in this field (cf. page 32);

- Support to proposals permitting coastal states to control the dumping of waste in the territorial sea and in the economic zone in accordance with international (regional) rules which do not prejudice the freedom of navigation (cf. page 32);

- Opposition to proposals permitting the transformation of the economic zone into a special zone (cf. page 32);

- Support to the proposal concerning the transfer of enquiries initiated by the Port State to the Flag State or the Coastal State at their request (cf. page 32 bis);

- Acceptance of the right of Coastal States to intervene in the event of flagrant violation by a vessel of international rules provided that the exercise of this right is combined with adequate guarantees for the freedom of navigation (cf. page 32 bis);

- Defence of the principle of priority of competence of the Flag State account being taken, however, of the need to safeguard the legitimate interests of the coastal State (cf. page 32 bis).

IV. MARINE SCIENTIFIC RESEARCH
(cf. pages 33 to 35)

- Support for proposals for adequate safeguards for the States undertaking marine scientific research in the conduct and promotion of that research (cf. page 34);

- Maintenance of the idea of tacit consent in order to avoid cumbersome procedures which might obstruct the conduct of marine scientific research (cf. page 35);

- Search for rapid procedures for the settlement of disputes in the marine scientific research field (cf. page 35);

- Support for the efforts to develop and transfer the benefits of marine technology in the marine scientific research field to the developing countries (cf. page 35).

.../...

V. SETTLEMENT OF DISPUTES
(cf. pages 36 and 37)

- Pursuit of efforts to have included in the Convention a system for the compulsory settlement of disputes (cf. page 37);

- Application of the arbitration system should one of the parties to a dispute choose that method of settlement (cf. page 37).