

Third United Nations Conference on the Law of the Sea

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-

A/CONF./BUR/SR.4

Summary records of meetings of the General Committee 4th meeting

Extract from the Official Records of the Third United Nations Conference on the Law of the Sea, Volume I (Summary Records of Plenary Meetings of the First and Second Sessions, and of Meetings of the General Committee, Second Session)

two statements, as well as statements by any other delegations, should have received more or less equal treatment.

24. Having compared the original texts of statements by a number of delegations with the corresponding summaries in the summary records, his delegation noted that its statement had been the only one to have received less than equal treatment.

25. The CHAIRMAN agreed that the matter was very sensitive and of the utmost importance to delegations. He agreed that every statement should be properly reflected in the summary records. He invited the Special Representative of the Secretary-General to reply to the question raised by the representative of Peru.

26. Mr. STAVROPOULOS (Special Representative of the Secretary-General) said it was the first time that such a complaint had been drawn to his attention. He felt sure that any omissions that might have been made in the summary record did not reflect any partiality on the part of the Secretariat with respect to the delegation of Peru or any other delegation.

27. In any case, after examining the facts, he undertook to report back to the delegation of Peru and then to the General Committee.

28. The CHAIRMAN suggested that the imbalance in the summaries of the two statements in question had perhaps resulted from the fact that different précis-writers had prepared them. He accordingly suggested that, in order to preserve a proper balance in the summary records, there should be consultation among précis-writers with regard to the treatment of the various statements.

29. Mr. ANDERSEN (Iceland) said that, in all fairness to the Secretariat, he wished to point out that the statements made by some delegations were more condensed than those made by others. It was therefore not merely a matter of the number of lines in the final summary.

30. Mr. ARIAS SCHREIBER (Peru) agreed that it was not merely a matter of the number of lines; however, in the case in point, a question of substance had been omitted from the summary of his delegation's statement, namely a reference to the sea-bed régime and the organs of the International Sea-Bed Authority.

The meeting rose at 10 a.m.

4th meeting

Tuesday, 20 August 1974, at 9.10 a.m.

President: Mr. H. S. AMERASINGHE (Sri Lanka).

Nature and form of final documents of the session

1. The CHAIRMAN stated that he had held informal consultations with the Chairmen of the three Committees, the General Rapporteur and the Chairman of the Drafting Committee, concerning the nature and form of the final document or documents of the session. He himself considered it essential to sum up, before the end of the present session, the work done by the Conference during its first two sessions. The summary should merely state what had happened, without going into details about the methods of work employed, for example whether the discussions had taken place in official or informal meetings or in working groups. Public opinion was interested in results, not in how they had been obtained.

2. As far as possible the reports of the Committees should contain agreed texts to reflect the main trends emerging from the many working documents, particularly those drafted for the Second Committee. Those reports would serve as a sound basis for negotiations. The time for individual statements was over and the Conference must now enter on the active phase of negotiations.

3. With respect to documentation, the Conference still had before it the proposals made in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor Beyond the Limits of National Jurisdiction and the General Assembly. It would suffice to mention those proposals without reproducing them, as suggested in document A/CONF.62/L.5. Any amendments or revisions of those proposals might then be dealt with in the manner suggested in that document.

4. The various informal working documents put out during the present session for each of the three Committees should be issued in the A/CONF.62/L series.

5. The President might summarize the three Committees' reports which should not be unduly detailed.

6. Finally, the Conference should send a brief report to the General Assembly with its recommendations regarding the

date and venue of the next session and the right of States which had acceded to independence but did not meet all the conditions laid down by the General Assembly in that respect, to take part in the work of the Conference.

7. Mr. ENGO (United Republic of Cameroon) speaking as Chairman of the First Committee, agreed that the reports should be essentially factual. The Rapporteur of the First Committee had made a statement the previous day on the Committee's draft report and there had been no unfavourable reactions to it.

8. Mr. AGUILAR (Venezuela), Chairman of the Second Committee, said that the Committee had made considerable progress on the items referred to it. It had almost completed the first reading of the documents before it and should be able to complete its second reading within the allotted time. In the light of the present debate, the Committee would submit the results of its work in a report to the Conference.

9. Mr. YANKOV (Bulgaria), speaking as Chairman of the Third Committee, said that each Committee should make a concise report, containing information and presenting the facts, without any appraisal of the trends that had emerged during the debates. The reports should reflect the work of the Committees and should contain consolidated texts with as few variants as possible. The Third Committee expected to complete its report by the end of the week.

10. As the Chairman had suggested, a combined summary of the reports of the three Committees could be prepared in order to facilitate the resumption of work at the next session of the Conference.

11. Mr. ZEGERS (Chile) said it was essential for the Conference to make recommendations on methods of work as well as on the date and place of the next session. The third session should not start a new general debate: it should take up the work of the Conference at the point where it had been left.

12. If the final documents of the present session of the Conference were only a presentation of the facts, they might be

inadequate for the next session. Because of its political character, the Conference could not draw up a single document as in the case of the Geneva Conference of 1958. The political trends that had emerged during the second session of the Conference must be clearly set forth. Even if the positive results were small, mention should be made of the work in informal meetings and of the overwhelming support for certain concepts.

13. If there was no time to prepare reports giving a general picture of the work of the Committees, the Chairman could prepare a summary, as he had himself suggested.

14. Mr. ARIAS SCHREIBER (Peru) said that he saw no objection to the reports of the Committees presenting the facts, however unsatisfactory the facts might be. Each Committee should decide for itself how it wished to draft its report. He agreed with the Chilean representative that it was regrettable that the Committees, particularly the Second Committee, could not submit a single version of draft articles. It was for that reason that the trends of opinion in the debates should be indicated. Obviously a new general debate should not be held, but the supporters of the two main trends should show a spirit of compromise and try to reduce the number of alternative proposals to a minimum. Only in that way could the negotiation phase be set in motion.

15. Mr. NJENGA (Kenya) said that the Second Committee's report should not be limited to a presentation of the facts. It should also indicate the extent of support for certain concepts, such as that of the exclusive economic zone. If the report emphasized only the trends that were considered most important, Governments might form a distorted view of the work of the Conference.

16. Sir Roger JACKLING (United Kingdom) doubted whether reports need be drawn up to inform Governments of the work of the Conference, since Governments would undoubtedly receive clear and detailed accounts from their delegations. He agreed with the representative of Chile that it was particularly important to recommend that a new general debate should be avoided. At the present stage, however, the Conference could not reach conclusions on the importance of particular trends. Any attempt to do so would be unrealistic and over-optimistic. What was essential was to prepare the ground for negotiations.

17. The CHAIRMAN cautioned delegations against the temptation to assess the amount of support given to a particular idea. For example, though the concept of the exclusive economic zone had been supported by a hundred or so delegations, their support had been given for very different reasons.

18. Mr. TREDINNICK (Bolivia) said that it had not been possible to make an objective appraisal of the different trends in the Committees' debates especially those of the Second Committee. The reports should therefore show as clearly as possible how the debates had developed.

19. Mr. STEVENSON (United States of America) said that, like the representative of Chile, he considered that it would not be expedient to reopen a general debate at the beginning of the next session. He thought the Committees should, during the present week, examine what could be done between the current session and the beginning of the next session to make the Conference more effective. Moreover, work might be organized differently in different Committees. The Chairmen of Committees could consult their members on the matter and, if need be, arrange for meetings of regional and interregional groups on the organization of work.

20. The CHAIRMAN proposed that the suggestion made by the representative of the United States of America with regard to the organization of work between the sessions of the Conference should be examined at a later stage.

21. Mr. OGISO (Japan) said that he, too, considered that the general debate should not be reopened at the beginning of the next session. The Conference should, when the time came,

resume its work at the point at which it had left it at the end of the current session. The reports should therefore be prepared in such a manner as to facilitate the continuity of the work between the stage now reached and the next session, and also during the forthcoming session.

22. Those reports should, as the Chairman had proposed, be confined to giving an objective account of the progress of work in each committee, with the Chairman subsequently providing a summing-up of the general progress achieved in the proceedings of the Conference. It would be dangerous to make attempts to appraise the trends that had emerged in the course of the discussions. Indeed, certain positions adopted might give rise to varied interpretations, and the importance to be attached to any given proposal should be left to each Government to assess. With particular reference to the Second Committee, it was not desirable to set an official stamp on a judgement formed regarding the trends that had emerged during the course of informal meetings. For all those reasons, the delegation of Japan supported the initial proposal made by the Chairman with regard to the form and nature of the final document concerning the session.

23. The CHAIRMAN observed that all the speakers were in agreement about ruling out any idea of reopening the general debate at the beginning of the next session; it therefore seemed to him pointless to revert to that topic in the future.

24. Mr. RATTRAY (Jamaica), Rapporteur-General, noted that some delegations wanted the reports to be used to evaluate the work accomplished. In their view, that would prove useful in preparing for the deliberations of the future session. He thought that under the rules of procedure, it would not be possible, in the time still remaining to the Committees, to carry out an assessment that would reflect the substance of the problems and the trends that had found expression. Such a project seemed too ambitious. He could see no alternative to the concise statement advocated by the Chairman, which would moreover provide a very adequate idea of what had gone on during the work of the session.

25. Mr. MOTT (Australia), Rapporteur of the First Committee, considered that, at the stage reached in the work of the Conference, it would be preferable to speak of a "statement of activities" rather than of a "report". It seemed to him, judging from the exchanges of views that had taken place among the Officers of the First Committee, as well as with members of the Committee, that the idea which had emerged was that it would be better not to attempt to prepare documents as complete as those compiled by the organs of the sea-bed Committee. It would be a protracted and somewhat hazardous task to endeavour thus to reflect, in a balanced manner, the various positions taken up by the delegations in the course of their deliberations. It would be preferable to confine oneself to statements of fact on the progress achieved. A document along those lines would be easier to draw up, for it could hardly give rise to any objections, so that more time would be left to the Committee to carry on with its work—which seemed recently to have taken a new turn and might hold out interesting prospects—until the end of the session.

26. Mr. KNOKE (Federal Republic of Germany) said that he fully endorsed the statement by the Rapporteur-General and supported the Chairman's suggestions concerning the drafting of reports that would be confined to a statement of the facts. Like Mr. Zegers, he felt that the next session should resume the work from the point where the current session had completed its task.

27. The Second Committee had already done a very important job. During the last few working days remaining to it, it could try to reduce the number of alternative texts so as to enable the next session to get off to a good start. Like the representative of Japan, he did not think that the Chairman of the Second Committee should try to evaluate the Committee's past work.

28. The CHAIRMAN indicated that those matters would be discussed in the plenary meeting at 9.30 a.m. on 21 August.
29. Mr. ABDEL HAMID (Egypt) observed that the matter under discussion was important for the future of the Conference. It affected the Second Committee in particular; although various opinions had been expressed about the work of that body, his delegation was satisfied with the progress it had made. The Committee had achieved a result that would have seemed unattainable just two or three months ago. In view of the complexity of the issues being discussed, there was no need to speed up the work, because that might endanger what had been achieved slowly but surely under the guidance of the Chairman of the Committee.
30. It appeared to his delegation that a consensus was emerging on a number of points. A statement would be made about the work of the Committees and the session; it would be concise and factual, not an assessment. Indeed, it would be premature and dangerous to embark on an evaluation of the trends expressed; an evaluation would in any case be impossible, because how could one presume to assess a part of something whose form and content were still unknown? It was also generally agreed that the Conference must avoid another general debate at the opening of the next session.
31. His delegation felt that the statement should be made by the President in person, and that he should prepare it on the basis of the information provided by the Chairmen of the Committees. It was not apprehensive about the difficulties that still had to be overcome. Public opinion might not have a clear idea of how far the work of the Conference had progressed, but Governments, which knew the stumbling blocks they would have to overcome, were aware of the gains made.
32. Mr. ANDERSEN (Iceland) said he did not think that on the pretext of speeding up their work in the few days that remained, the Committees could avoid drawing up documents summarizing the work of the session and assessing the progress made in considering draft articles. Such a working paper would be particularly useful in the case of the Second Committee. It would be an invaluable reference document for Governments because it would inevitably be of greater general value than the reports by each delegation.
33. Mr. ZEGERS (Chile) said it was essential that a more general and objective document than the reports received from delegations should be given to Governments. The document must be sufficiently complete and detailed to enable them to determine their positions relative to those of various other Governments and to give their delegations the instructions necessary for pursuing negotiations. A bare account of the facts would not do; it must be accompanied by an evaluation of the positions taken, if only to give an accurate idea of what had happened in the Second Committee. Without such a document, the Conference would have nothing before it at the opening of its next session but a comparative table of proposals, which would be even more detailed than those provided so far, and it would not know where to begin negotiations.
34. Mr. KOLOSOVSKY (Union of Soviet Socialist Republics) observed that the issue under discussion was important for the end of the current session, for the next session and for the Conference as a whole. The pace of the work of the Conference should not be forced artificially. All the participating countries sincerely wanted the Conference to "bring forth" a convention on the law of the sea, but there was a need to be realistic and recognize that the offspring was still in the embryonic state; its gestation must not be hurried if it was not to be aborted and was to develop normally afterwards.
35. It would be wrong to say that the session had ended with a failure or that it had merely marked time. The fact was that it had helped to clarify the positions of various countries, it had brought out serious draft articles and, in each committee work-
- ing papers reflecting the various alternative texts. Delegations were now quite clear about each other's positions.
36. Contrary to what had been suggested, his delegation had no doubt that it would be able to give its Government an objective account of the work of the session. It was sure that other delegations were in the same position and that Governments would know perfectly well how to evaluate the reports thus submitted.
37. To try to draw up a single document at the present stage would be to embark on a dangerous and self-deceiving exercise: dangerous because there was a risk that it would reopen a bitter general debate at the end of the session, and self-deceiving because the reason why the Conference had not succeeded in reconciling the various alternative texts proposed was that it was not possible to do so. Many more informal talks would be needed before a generally acceptable formula could be worked out.
38. The presentation of the existing working papers, which had been approved in each Committee, provided an adequate basis for seeking solutions likely to command a consensus before and during the next session.
39. Mr. NANDAN (Fiji), Rapporteur of the Second Committee, said that he had held informal consultations regarding the nature of the Second Committee's report with approximately 50 delegations representing all regions and interested groups, the vast majority of which wanted a report that dealt with substantive issues and reflected objectively the main trends that were emerging from the discussions. A small group, however, felt that the report should be schematic and should not touch upon substantive issues. Since the Second Committee had not completed its work, it had not as yet considered the matter of a report. He and the Chairman of the Second Committee had thought about the best way of preparing a document that would reflect the main trends, but had not taken any decision. He himself believed that the subject should first be discussed by the officers of the Second Committee and that the Committee as a whole should then be consulted.
40. Mr. TUNCEL (Turkey) said that his delegation agreed with the President of the Conference that the final document should be a factual account in which there was no need to analyse the substance of the deliberations of the Conference. Unlike the representative of Chile, he believed that the next session of the Conference would be no different from the present session as far as methods and procedures were concerned. There was no need for a report since, as the representatives of the United Kingdom and the Soviet Union had observed, the delegations that attended the next session would represent the same Governments and their members would be aware of what had been said and done at Caracas. Consequently, he agreed with the representative of Chile that it would be sufficient to adopt a recommendation. The assertion that delegations would submit subjective reports to their Governments was, he believed, unjustified. His delegation had taken an active part in all the proceedings and had formed a clear and objective view of the various trends that had emerged; its report would therefore be objective. He agreed with the representative of Egypt that any statement on the activities of the Conference should be confined to a precise account of the facts and should not include an evaluation of the trends. That latter point was important in view of the statement by the President of the Conference that at the end of the session he would prepare a summary of the work accomplished by the Conference. It was important to ensure that that summary did not turn into an evaluation. The representative of Kenya had stated that all the issues were important and that it was difficult to make a valued judgement on them. As a basis for the summary, the President could draw on the statements by the Chairmen of the Committees. The very important proposal made by the representative of the United States should be examined at a later meeting.

41. Mr. AGUILAR (Venezuela) said that he would speak as the representative of Venezuela, not as the Chairman of the Second Committee, since the latter had not yet discussed the nature and form of the final document. The results achieved at the current session were of great significance and should serve as guidance for future work so that the Conference could reach the stage of negotiations at its subsequent sessions. That could be done by preparing documents which accurately reflected the results achieved so far.

42. The ideal starting point, as far as the Second Committee was concerned, would be a single set of draft articles that would serve as a basic document for the discussions and could be amended as and when appropriate. Unfortunately, since some delegations opposed that solution, it would be necessary in plenary meeting to give an official "stamp of approval" to the documents reflecting the main substantive trends, consolidated in a single document with a general preface, introductions to each chapter and commentary; it would then have to be agreed that the document should be discussed at the next session. A consolidated document could be prepared by combining the provisions of all the documents submitted and pruning the alternative texts. That could be done by working groups in meetings held between the two sessions. Once it had a consolidated text, the Conference could begin the normal process of article-by-article consideration. The stage of decision-making and political agreements would then really begin and should be followed by a final stage in which the convention would be drafted and adopted.

43. Since there was not a clear enough consensus on the question of the final document he believed that it would be useful to hold another meeting of the General Committee. Consultations could first be held with the delegations which were not members of the General Committee in order to obtain a clearer idea of the situation before the next plenary meeting.

44. Mr. ENGO (United Republic of Cameroon) said that there should not be different types of reports from each Committee. Indeed, if one Committee submitted a detailed report and another a simple statement of facts, it might give the impression that the latter had not even been able to approve a report. It should first be decided whether the final document would be a report in the traditional sense of the term or a statement on activities. A report had to be submitted to someone but the Conference was a sovereign body and while a report should give an account of the progress made, the term "progress" was open to different interpretations. The usual recipient of a report was a Government, but he believed his Government would prefer to study the report submitted by the Head of his delegation rather than a report from the international gathering. There was therefore no need for the Conference to submit a report to Governments. Some had said that

due account should be taken of international public opinion; that was true, but the sole purpose of the Conference was to prepare a historic convention and it could be left to the press to satisfy international public opinion. The Conference on the Law of the Sea would adjourn at the end of the month but the same delegations would meet again the following year. The Conference should therefore be realistic and adopt the proposal of the President.

45. Mr. JEANNEL (France) said that the questions raised by the representative of Chile were out of line. It was a serious matter to accuse delegations of giving subjective information to their Governments: if the report was subjective, the representatives would probably be relieved of their duties. The point at issue was what the Conference would do at its next session but that was so obvious that it did not need new documents because the present session had been fruitful. The Second Committee had caught up with its backlog and the three Committees could now work along parallel lines since the subjects with which they were dealing were interrelated. He did not believe that there should be a general debate at the next session and no time should be lost in preparing a real report. The Chairman's proposal should be accepted provided that his account was not too long and did not try to go too far. That would enable the Committees to go on working a little longer.

Date and venue of the next session

46. The CHAIRMAN said that the Austrian Government had stated that it could host the next session at Vienna between 15 February 1975 and 15 April 1975 or, as had already been contemplated, between 1 July and 15 September. The session could also be held at Geneva between 24 February and 25 April but that would entail serious difficulties because other conferences were to be held concurrently both by the United Nations and by the Swiss Government. It could also be held at Geneva after 1 September but that would not appear to be practical. Another possibility would be to hold it between 7 July and 29 August in New York.

47. It would therefore be most convenient if the spring session were to take place from 3 March to 25 April and the summer session from 1 July to 22 August 1975. If there were to be two sessions, perhaps the first could be held at Geneva and the second at Vienna. However, since many delegations would wish to return to Caracas in the summer, the spring session could be held at Vienna. The host country should be able to install a system of mechanical voting. A document setting out the possible dates and venue of the next sessions would be distributed.¹

The meeting rose at 11.20 a.m.

¹Subsequently circulated as document A/CONF.62/BUR/2.

5th meeting

Wednesday, 21 August 1974, at 9.05 a.m.

President: Mr. H. S. AMERASINGHE (Sri Lanka).

Nature and form of final documents of the session (*concluded*)

1. The CHAIRMAN recalled that the Committee had before it five proposals relating to the final document: the Rapporteurs of the three Main Committees would prepare a statement or an account of the work of those bodies; the Chairmen of the Committees would prepare a general statement outlining the

work done thus far; the Rapporteur-General would prepare a document on the work carried out in plenary meetings; the President of the Conference would make a statement summarizing the activities of the Conference and indicating what was proposed for the future, and would then address a letter to the President of the General Assembly requesting one or two further sessions and recalling the recommendation concerning the representation of the national liberation movements at the Conference.