

Third United Nations Conference on the Law of the Sea

1973-1982

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Summary Records of Plenary Meetings 11th plenary 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)

2. Mr. RAKOTOSIHANAKA (Madagascar) congratulated Mr. Amerasinghe on his election to the office of President of the Third United Nations Conference on the Law of the Sea and assured him that his delegation would contribute fully to its work.

3. Introducing the amendments contained in document A/CONF.62/12, on behalf of Mauritius, the United Republic of Tanzania and Madagascar, he stressed that they were un-complicated amendments, which should not give rise to controversy. The first of those amendments would replace the wording of rule 14 by the wording of rule 39 of the rules of procedure of the General Assembly of the United Nations, so as to specify clearly the role of the General Committee, which, in his delegation's view, should be confined to the tasks of organization and co-ordination. His delegation, which was an upholder of democratic principles, could not support the principle of giving the General Committee powers of decision-making or veto, which belonged exclusively to representatives of States to the Conference; consequently, it could not support the amendments proposed in document A/CONF.62/6, which would make recourse to voting and the activities of the Committees dependent on the goodwill of the General Committee.

4. The purpose of the amendment to rule 20 was to avoid placing the Secretariat in a difficult position by specifying that it would be called upon to make statements concerning questions under consideration by the Conference only when expressly requested to do so by the Conference.

5. The purpose of the proposed amendments to rule 32 was to clarify the wording of the draft rules of procedure by specifying that no proposal could be considered unless copies of it had been circulated in all working languages.

6. Rule 39 would gain in clarity and precision if the text was streamlined. The ideas contained in it could be expressed more simply and in two paragraphs.

7. Lastly, with regard to rule 55, his delegation felt that it was normal for the Chairman to report to the Committee on progress achieved but that the officers should not be given the right to make judgements of capital importance, as was provided in the Secretariat text. For that reason, his delegation proposed the deletion of the second part of the last sentence.

8. Turning to the question of voting, he wished to make some comments on the consensus system, about which there had been much talk since the opening of the Conference. In practice, it could be noted that that procedure was used to safeguard privileges and slow down the search for generally acceptable solutions. His delegation had accepted the gentleman's agreement approved by the General Assembly (see A/CONF.62/2) and would spare no efforts to arrive at a consensus, but it wished to ensure equality of rights and considered that consensus, which was a means and not an end, should in no event replace voting and result in a right of veto. It was a concept difficult to define, which was not a rule of law and should therefore not be included in the rules of procedure of the Conference but annexed to them.

9. Mr. BAKULA (Peru) congratulated the new President of the Conference, whose abilities and experience were well known.

10. All delegations had recognized that the problems of the law of the sea were interrelated and should receive equal treatment. That consideration, which was, moreover, set forth in the gentleman's agreement approved by the General Assembly, had prompted his delegation to propose the amendment contained in document A/CONF.62/13, to insert after rule 44, a new rule on the joint voting on related proposals. That amendment would make it possible, on the one hand, to consider related questions jointly, and, on the other, to ensure that agreements were adopted by a consensus reflecting the general opinion.

11. With regard to the principle of consensus, he stressed that it had been recognized that the new rules to be elaborated concerning the law of the sea should not be imposed by a single group of countries, but should be supported by all countries, whatever their situation and their degree of development. It had also been observed that a State could not be obliged to accept, in a convention, provisions which had been adopted against its will and which were contrary to its sovereign rights.

12. The PRESIDENT suggested that the members of the Conference should proceed immediately to consultations on the amendments proposed.

It was so decided.

The meeting rose at 11.50 a.m.

11th meeting

Friday, 14 December 1973, at 5.40 p.m.

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

Results of informal consultations

1. The PRESIDENT said that the consultations held, pursuant to his statement at the previous meeting, with the sponsors of the various amendments and other interested parties had demonstrated that progress had been made and that there was a distinct possibility that the Conference could reach agreement on the central issue, namely, that of the gentleman's agreement and the appropriate manner to give effect to it. There had been a suggestion that the spirit of the gentleman's agreement should be reflected in a Conference resolution, while

the ways and means of putting it into effect would be reflected in appropriate rules of procedure.

2. After a discussion in which Mr. JEANNEL (France), Mr. KRISHNADASAN (Zambia), Mr. WARIOBA (United Republic of Tanzania), Mr. CASTANEDA (Mexico) and Mr. WAPENYI (Uganda) took part, the PRESIDENT noted that, while some delegations wished to keep open the possibility of further meetings the following Monday, others were opposed to such an extension of the current session.

The meeting rose at 6.55 p.m.