

Third United Nations Conference on the Law of the Sea

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-
A/CONF.62/SR.17

Summary Records of Plenary Meetings 17th 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)

40. Rule 54, subparagraphs (b) and (d) of which had had to be amended, gave the procedures for voting in the Main Committees.

41. Referring to the last amendment, he said that the deletion of the appendix containing the gentleman's agreement, as approved by the General Assembly, would follow the endorsement, by consensus, of the declaration he intended to make on the subject.

42. Much time and effort had gone into the achievement of the so-called package deal and he hoped that the Conference, in a spirit of goodwill and mutual understanding, would adopt it.

43. He then drew attention to Conference Room Paper No. 5 which contained the text of the Singapore delegation's proposal relating to voting majorities, the publication of which had been requested by the representative of France.

44. Mr. THOMPSON-FLORES (Brazil), thanking the President for the constructive working paper, said that the solution was a compromise and he hoped that the Conference would adopt it by consensus.

45. With respect to subparagraph 2 (d) of the revised rule 37, it seemed to his delegation that once the Conference had decided that all efforts at reaching general agreement had been exhausted under paragraph 1 of that rule, there should be an immediate vote on the substantive matter under consideration, since the time of that vote would already have been fixed.

46. He suggested that in the revised subparagraph (d) of rule 54, the words "of a vote by the Chairman" should be placed after the word "deferment" and that the words "the Chairman" be placed after the word "rendered".

47. The PRESIDENT said that he agreed entirely with the Brazilian amendments to the revised rule 54 (d).

48. Turning to the point raised by the representative of Brazil with respect to subparagraph 2 (d) of rule 37, he said that that paragraph did not mean that a vote would take place immediately after it had been decided that no agreement had been reached. That was clearly shown in paragraph 3 of rule 37 which was intended to enable delegations to inform their Governments of the latest developments and to receive instructions.

49. Mr. CÏSSË (Senegal), speaking on behalf of the African group of countries, said that after consultations with the President he had informed the group that an agreement had been

near. It now appeared that there was still some misunderstanding. The African group had understood that a decision of the Conference on matters of substance would be by a two-thirds majority of those present and voting and that the convention would be adopted by a two-thirds majority of participating States. If, as the President had stated, the majority needed for the adoption of the convention had not yet been determined, then the African group of States wished to make it clear that it had expected that the convention would be adopted by a majority of two thirds of the participants at the Conference.

50. The PRESIDENT pointed out that that possibility still existed, as nothing had been decided.

51. Mr. ENGO (United Republic of Cameroon), referring to the Brazilian amendment to subparagraph (d) of rule 54, suggested that the words "of a vote by the Chairman of a Committee" be added after the word "deferment".

52. With respect to the new rule on the adoption of the convention, his delegation supported the idea that all matters of substance should be decided by a two-thirds majority of those present and voting. The issue of the adoption of the convention had been raised in an attempt to arrive at a compromise since there had appeared to be nothing in the rules which provided for the adoption of the convention as a whole. However, the adoption of the convention was a matter of a highly substantive nature and should not therefore be different from other matters of substance. His delegation did not therefore see the need for a new rule; nor did it see the need for postponing the decision on how the convention would be adopted. The new rule, as read out by the President, could lead to complications and a decision at the present meeting on the method of adopting the convention would ensure that it would receive widespread support. All expected the convention to be a realistic one and there was therefore no need for dilatory measures in deciding on how it would be adopted.

53. The PRESIDENT pointed out to the representative of the United Republic of Cameroon that rule 64 provided for the amendment of any rule of procedure of the Conference by a two-thirds majority. Thus, as the representative of Australia had stated at an earlier meeting, the decision on the adoption of the convention could be taken at any stage. A number of representatives had felt that the matter was an important one and it had thus been deferred.

The meeting rose at 7.10 p.m.

17th meeting

Wednesday, 26 June 1974, at 11 a.m.

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

Adoption of the rules of procedure

(A/CONF.62/L.1, A/CONF.62/WP.1 and Add.1,
A/CONF.62/WP.2) (continued)

1. The PRESIDENT said that the informal consultations had not yet ended and would be continued in the afternoon; on the following day at the latest, a decision would have to be taken and the rules of procedure finally adopted.

2. Mr. GALINDO POHL (El Salvador) said that the document submitted by the President represented an attempt to reconcile divergent positions and reflected the complexity and the special nature of the Conference. His delegation approved of the draft but would like to make two comments on it. First, the basic principle which should govern the work of the Conference was set forth in the gentleman's agreement; that was the

principle of "consensus". The complicated machinery designed to make the consensus possible was described in rule 37, but that key word did not appear in the draft rules of procedure, which used the much vaguer term "general agreement". His delegation much preferred the term "consensus", especially if it was defined as an agreement to which there was no formal opposition even if some delegations made reservations or comments. He did not think that there was any need for him to discuss further the documents drawn up by the President but he felt that he must comment on the fact that two key documents rested on two basic but not congruent ideas, namely, consensus and general agreement. To facilitate progress, his delegation would be ready to accept a declaration of the President to the effect that the two documents in question were related and explaining the reasons why the term "general

agreement" had been used in the rules of procedure. It would also be necessary to obtain the approval of the members of the Conference. His delegation was sure that the President would be able to find a solution satisfactory to all.

3. The second and much more important question was that of the majority required for approval of the text of the convention as a whole. On the previous day a formula had been read out whose ambiguity gave rise to some major objections, but a new version had since been issued as document A/CONF.62/WP.1/ADD.1. The formula would allow the decision on the required majority to be deferred to a later date. Clearly there were only two possibilities: the convention would be adopted by the same majority as all substantive questions or by a larger majority. In his view it was not in the interest of the Conference to defer the decision to an unspecified date, for that might involve new discussions, problems and adjournments and might unduly prolong the debate. The rules as submitted would enable the work to be brought to its final goal, i.e., the drafting of the text of the convention. Then a new stage would begin—that of ratification. Unless the Conference decided to adopt the convention by a two-thirds majority it would never have the force of international law and might suffer the same fate as the 1958 Geneva Conventions. That was why his delegation kept the question of ratification in mind when considering the matter and thought that the Conference should solve the problem immediately rather than deferring it and leaving a gap on such a vital question in the rules of procedure. He would therefore prefer that the Conference should consider the possibility of defining in the rules of procedure the majority required for the adoption of the convention: he did not think that a two-thirds majority was too large; on the contrary, it was an absolute minimum. However, he stressed that he was merely making a comment, for he did not wish to hold up the work of the Conference and would associate himself with the majority opinion.

4. The PRESIDENT paid tribute to the work performed by the representative of El Salvador as Chairman of Sub-Committee II of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction.

5. As to the definition of the word "consensus", he noted that the Economic and Social Council had adopted a recommendation submitted to it by the Population Commission concerning the World Population Conference which was to meet at Bucharest in August; the recommendation defined the word as "general agreement without a vote but not necessarily unanimity."¹

6. Mr. TELLO (Mexico) thought that the convention as a whole should be approved and opened for signature in conformity with the provisions of rule 39, paragraph 1, namely, by a two-thirds majority of the representatives present and voting. In practice, the result would be the same as it would if a majority of two thirds of the participants were required for there could be no doubt that on that occasion all the countries which had taken part in the drafting of the convention would be present.

7. Mr. KHARAS (Pakistan), referring to the point raised by the representative of Brazil concerning rule 37, paragraph 2, said that it was not clear to him whether the vote would take place when all efforts had been exhausted. He suggested that a drafting change should be made in subparagraphs (a), (b) and (d); if the word "vote" or "voting" was replaced by the words "question of voting", the text would be clearer and would correspond better to the wishes of the participants in the Conference.

8. The PRESIDENT said that he appreciated the spirit in which the representative of Pakistan had submitted his amend-

ments, although they did not seem to him to be absolutely necessary.

9. Mr. LACLETA Y MUÑOZ (Spain) said that in his delegation's view document A/CONF.62/WP.1 was a satisfactory basis for a consensus and he was happy to see that an agreement seemed near.

10. In a spirit of conciliation his delegation would not insist on the amendment to rule 40 which it had proposed, for the purpose of the amendment was the same as that underlying document A/CONF.62/WP.1/add.1. Furthermore, it tended to think that rules 37, 39 and 54 should be left as they were; but if a consensus emerged on the proposed amendments, it would not object.

11. As to rule 40A, he did not think that it was necessary to have a special rule on the majority required for approval of the text of the convention. Like the representative of the United Republic of Cameroon, he thought that rule 39, paragraph 1, was sufficient. He even feared that the possibility provided for in document A/CONF.62/WP.1/Add.1 might compromise the final outcome of the Conference. Nevertheless, if the Conference thought otherwise, and if there was a possibility of agreement, his delegation would not object. As far as drafting was concerned, the phrase "the text of a convention . . . as a whole" should not be left in the singular, since it was not yet known whether there would be one or several conventions.

12. He also wished to point out that amendments were required in the text of draft rule 64 concerning the majority required for amendments to the rules of procedure, in order to bring it into line with the amendments made to rules 37 and 39.

13. Mr. WARIOBA (United Republic of Tanzania) said that his delegation firmly maintained its position on rule 37, since its basic objection remained the same; the real aim of the gentleman's agreement was to encourage the Conference to make every effort to reach a general agreement not only when voting but at all stages of its work. The rule undermined that aim by referring only to voting.

14. Moreover, his delegation had reservations about paragraph 2 (a): it thought that the period of 10 days was too long for a question of voting and it would like to know whether the meaning of paragraph 2 (c) was that the President was required to consult the General Committee or the Committee could ask to be consulted. The wording seemed to him ambiguous, especially when compared with the wording of article 54 (d), which was more specific. If it was intended that the President should be given discretionary powers in the matter, the subparagraph should be drafted in such a way as to leave the President free to interpret it as he saw fit. In fact, it might be desirable to delete all mention of the General Committee. He would not dwell on the point, but he sought an assurance that in future no one would insist that the President should consult the General Committee.

15. He could see no value in the new rule 40A. In substance the new rule was virtually the same as rule 39; it would therefore be better to adopt rule 39 as it stood without adding anything to it.

16. He was opposed to the idea of resuming the procedural debate after the substantive debate. If the question was put to the vote, his delegation would vote against the resumption of the debate.

17. The PRESIDENT said that rule 54 (d) in no way obliged the Chairman of a Main Committee to consult the Committee officers and that consultations would be held with them only when necessary.

18. Mr. WARIOBA (United Republic of Tanzania) said that he wished that to be stated clearly, so that there should be no other possible interpretation.

19. The PRESIDENT commented that it was hardly possible to compel the President or a Chairman to hold consultations and he saw no value in including additional details in the text.

¹E/CONF.60/2, annex.

20. Mr. YANKOV (Bulgaria) noted that after difficult informal consultations which had ended in a general agreement the Conference had reached the extremely important stage of holding political negotiations to determine the possibilities of agreement. It was extremely encouraging to see that the principle of consensus, which was intended to play a vital role in the functioning of the Conference, had been generally accepted: it reflected a new trend in the drafting of international law, for it was based on the sovereign equality of States and on the duty of States to co-operate with each other. At the end of the 1940s and at the beginning of the 1950s the international community, in order to ensure the universality of treaties, had had recourse to the method of stating reservations; that method had certainly been effective, but consensus was none the less an essential condition for the universality of an international agreement. Thus the gentleman's agreement was very important: it was not a rule of procedure but the very foundation of the rules of procedure. In addition to the gentleman's agreement, his delegation thought that the declaration of the President was a decisive factor for the success of the Conference.

21. His delegation had made many concessions to enable the Conference to reach a general agreement on the rules of procedure. Everyone was aware, in fact, that it had been his delegation's wish from the outset that the Conference should proceed only by way of consensus. Now his delegation was accepting other procedures, amounting to a very considerable concession. However, it had many reservations to make about documents A/CONF.62/WP.1 and Add.1, but it thought that the working paper represented a delicate balance and it would therefore not propose any amendments, so that the paper as a whole would retain all its force. The text contained four important elements: the gentleman's agreement on consensus, the reference to the determination that all efforts at reaching general agreement had been exhausted, the procedures for deferment and the majority required for decisions.

22. His delegation had already proposed the rule of a two-thirds majority of participating States for the adoption of the convention or conventions. If the Conference wished to adopt the convention by a higher majority, that must be stated in the rules of procedure. As had been pointed out by the representatives of El Salvador and Mexico, among others, that would make it possible to save time and avoid debates at a later stage and would emphasize the special importance of the convention. If a distinction was drawn between procedural and substantive questions, the majority required for the adoption of the text of the convention as a whole must also be specified. Document A/CONF.62/WP.1/Add.1 was only partly satisfactory, since it did not call for a higher majority. In a spirit of conciliation his delegation would not press its suggestion if to do so would prevent the Conference from reaching a consensus, but at the same time it appealed to the other delegations not to compel the Conference to make a choice.

23. His delegation proposed that the Conference should adopt the declaration of the President together with documents A/CONF.62/WP.1 and 2 and that it should settle that very day the problem of amendments to the draft rules of procedure.

24. Mr. RAHARIJAONA (Madagascar) paid tribute to the President's constant and persistent efforts to reach a general agreement. Although he shared the doubts and misgivings about the gentleman's agreement expressed by some delegations on the previous day, he had not wished to comment on that point. The real debate concerned the amendments at present under consideration. In order that the work of the Conference might begin as quickly as possible, his delegation would refrain from making any comments on questions of drafting. The draft rules of procedure were the fruit of a difficult compromise and they would finally be adopted, but the concessions which had been made were unequal.

25. His delegation wished to express its deep disappointment at the considerable delay between the first reading and the adoption of the convention. When a procedure was so cumbersome, it was generally the case that the legislator had wished either to give the parties time to reflect or to discourage at least one of them. In the present case, the legislator was the Conference itself. It was to be hoped that the Conference genuinely wished to institute a new law which would take account in particular of the interests of those who had not participated in the drafting of the earlier law but who now wished to participate, especially for compelling economic reasons. If it did not, it would justify the concern of those who were trying to hasten the process of drafting international legislation which was too slow in coming into being.

26. Mr. OGUNDERE (Nigeria) thought that the rules of procedure which the Conference was going to adopt, especially rule 37, would help to ensure the success of the Conference. All delegations had made reciprocal concessions, and his delegation was always ready to demonstrate its spirit of co-operation and conciliation. The Conference had accomplished a great deal of work on the basis of rules 67, 83, 108 and 125 of the rules of procedure of the General Assembly. The President's proposal was a middle way between the desire of some delegations that decisions should be taken by a simple majority and the desire of others that a consensus should be reached on every occasion. Rule 37 of the rules of procedure provided ways of applying the principle of consensus. Thus, without being entirely satisfied with the text of rule 37, his delegation would accept it in a spirit of compromise, since it should be taken as a whole.

27. As to article 40A (see A/CONF.62/WP.1/Add.1), his delegation thought that the adoption of the text of the convention as a whole was an important decision; accordingly, the words "rule 39" should be followed by a full stop and the rest of the sentence should be deleted. The fact was that rule 64 already provided for the possibility of changing the rules of procedure; the last part of rule 40A would therefore be superfluous and even dangerous since it introduced an element of uncertainty. The convention would not, of course, satisfy all delegations in all its provisions, and some delegations might cast negative votes or abstain because some clauses were contrary to the instructions they had received, but Governments would thus have the possibility of accepting them after a time for reflection. It would be dangerous if there were insufficient votes for the text of the convention to be adopted.

28. Mr. BARNES (Liberia) said he agreed with the remarks made the previous day by the Cameroonian delegation: it was not desirable to postpone the decision on the majority required for the adoption of the text of the convention. He also supported the declaration proposed by the President on the question of the gentleman's agreement.

29. Mr. MOORE (Ghana) said agreement had been reached on the rules of procedure and he feared that such agreement would be endangered by last-minute events. The gentleman's agreement was a recommendation by the General Assembly and it was important that the Conference on the Law of the Sea should approve it officially one way or another. He therefore endorsed the President's proposal. However, rule 37 of the rules of procedure, as amended, reflected the spirit of the gentleman's agreement and the latter could be adopted by a consensus if the President's proposal raised difficulties for some delegations. On the other hand, it should not be difficult for the delegations to agree that the text of the convention as a whole should be adopted by a two-thirds majority of the States present and voting, since, under paragraph 1 of rule 39, there was no danger of a minority prevailing over the majority.

30. With regard to document A/CONF.62/WP.1/Add.1, rule 40A appeared to be unnecessary and was unacceptable to his delegation. The convention might be adopted without a vote, either by consensus or by acclamation, but in no circum-

stances could a formulation be accepted which would delay its adoption. The necessary procedure should be determined without delay, since the convention would stand a better chance of being observed if it had received substantial backing.

31. Mr. AKE (Ivory Coast) said that document A/CONF.62/WP.1 represented the best compromise possible in the existing circumstances. It reflected the wish of the Conference to go ahead, and there could be nothing but praise for the spirit of co-operation and conciliation displayed by all delegations in their efforts to succeed. He hoped that that spirit would continue and help to overcome the difficulties inherent in the process of drawing up international instruments dealing with questions of such difficulty and involving such a wide range of views.

32. He had no objection to the procedure on decision-taking and on the majority required. It seemed to him, nevertheless, that the procedure, while it had the merit of reconciling the apprehensions of those States which feared that decisions would be imposed by an "automatic majority" with the views of those which were dissatisfied with the law as it existed, because they had not participated in its formulation, was somewhat cumbersome.

33. The Conference's decisions must be carried by an adequate majority and he thought that it was the declarations on the gentleman's agreement rather than a rule of procedure, which indicated the spirit in which such decisions must be taken. His delegation wondered whether, even in the event of agreement, it would not be desirable to take a vote, if only for the purpose of the summary records, which were a valuable source of reference. Nevertheless, he had no objection to the declarations on the gentleman's agreement being adopted by consensus.

34. His delegation recognized the generally accepted rules of a simple majority for decisions on questions of procedure and of a two-thirds majority for decisions on matters of substance. It also accepted the amendment on a quorum and on the majority proposed by the representative of Australia.

35. He had no objection to rule 39, paragraph 1. That provision should remain the rule for questions of substance and for documents formulated by the Conference and he did not consider that there was any need for a special arrangement in that connexion. If the Conference should see fit to adopt the rule that such a majority could be subsequently amended, his delegation would raise no objection, provided it was specified there and then that such larger majority should also consist of the majority of representatives present and voting. He also shared the opinion of the representatives of the United Republic of Cameroon and the United Republic of Tanzania on the discretionary powers of the President of the Conference and the Chairmen of the Main Committees, on the assistance of the General Committee and on the time allowed for reflection, which he thought was too long.

36. In accepting a compromise his delegation hoped that no State would seek to take advantage thereof to block the process of negotiations.

37. Mr. BREWAH (Sierra Leone) said that he thought it was time to move beyond the discussion stage and, now that the principle had been accepted, to apply the consensus to the rules of procedure.

38. In regard to the rule 40A he had no objection to make on the principle of voting but, like the representative of Nigeria, he could not accept the latter part of the paragraph, which envisaged the possible deferment of the vote to an unspecified date; that would open the door to protracted discussions. He thought it essential that a decision should be taken there and then on that point. He suggested that either the Conference should adopt the arrangement referred to in rule 39, namely the principle of a two-thirds majority of representatives present and voting, or, if the general opinion was that a different ma-

majority should be established, the appropriate decision should be taken without further delay.

39. Mr. TUFUI (Tonga) said he was favourably impressed by the goodwill displayed by all the participants, and sincerely hoped that the Conference would achieve positive results satisfactory to all States.

40. As regards the quorum and voting procedure he would have preferred, as did the Soviet Union, the adoption of decisions by a larger majority, thus guaranteeing that decisions by the Conference concerning the law of the sea would be effectively applied. Nevertheless, as a gesture of goodwill he would accept document A/CONF.62/WP.1, although it did not fully meet his views. It involved the adoption of the general provisions of rule 37, which opened up the possibility of a continual deferment of the voting. Subject to that reservation he associated himself with the delegations which had adopted the provisions of rule 37.

41. As regards the gentleman's agreement his delegation thought that a very important principle was involved. The representative of the United Republic of Tanzania had suggested, in connexion with the declaration through which the Conference would endorse the gentleman's agreement, amending the first paragraph by deleting the words "by acclamation", which would be replaced by the words "by consensus". He did not quite see how in that case it would be possible to identify the degree of support for that proposal. With that reservation he accepted documents A/CONF.62/WP.1 and Add.1 and WP.2.

42. The PRESIDENT noted that it had been decided at the previous meeting to replace the words "by acclamation" in document A/CONF.62/WP.2 by the words "by consensus".

43. Mr. PISK (Czechoslovakia) said that it was only with the approval of all participants that it would be possible to formulate a workable and lasting law of the sea. That meant that everyone must display great patience in the course of the coming negotiations and show willingness to respect the interests of other States.

44. As the representative of Singapore had already pointed out in the informal consultations, there was a fundamental difference between instruments, which concerned only the contracting parties, and the Convention which the Conference had set out to formulate, and which by its very nature would affect all nations, whether they were the contracting parties or not. He thought therefore that the proposal of the representative of Singapore on the taking of decisions on matters of substance was excellent in every respect, but, in a spirit of conciliation he was ready to accept the rules of procedure as amended by document A/CONF.62/WP.1. However, he still held the view that the adoption of the convention or conventions as a whole should require a majority of two thirds of the states participating in that session of the Conference.

45. Mr. OGISO (Japan) said that his delegation had already given its approval of the declaration through which the Conference would adopt the gentleman's agreement (A/CONF.62/WP.2).

46. As regards the amendments to rules of procedure (A/CONF.62/WP.1 and Add.1) his delegation found it difficult to accept subparagraph (d) of rule 54. In common with other delegations which had stressed the point repeatedly, his delegation thought that decisions taken by the Main Committees regarding the determination that all efforts at reaching general agreement have been exhausted should be on the same footing as decisions taken in the plenary Conference, and not by a simple majority. He hoped, however, that, in view of the goodwill displayed by all delegations, the work to be performed in the Main Committees would proceed in accordance with the gentleman's agreement and that any potential difficulties would not materialize.

47. As regards rule 39, document A/CONF.62/WP.1/Add.1 contained a proposal which was still rather ill-defined. It was to be feared, however, that any attempt at the end of the Conference to amend the majority provision in rule 39, paragraph 1, would meet with serious difficulties. As regards the final procedure for the adoption of the Convention, it appeared that opinion among the participants at the Conference was more or less equally divided. His delegation regretted that, in accepting the proposal made by the President, the representatives were in fact opting for the first solution proposed. However, in a spirit of goodwill he would not oppose the proposal.
48. He wished to make a minor comment in regard to the wording of the first sentence of the proposal in question. When

reading it out, the President had omitted the words "the text . . . as a whole". That was probably of no great importance but, if the omission was intentional, document A/CONF.62/WP.1/Add.1 should be amended accordingly.

49. The PRESIDENT noted that the words "the text . . . as a whole" had been deliberately included in order to conform to current drafting practice.

50. In reply to a question from Mr. BROWNE (Barbados), he replied with regard to rule 37, paragraph 2, subparagraph (a), as revised, that it was always for the President to determine the period of the deferment on a case-by-case basis, within the 10-day limit specified in that subparagraph.

The meeting rose at 1.05 p.m.

18th meeting

Wednesday, 26 June 1974, at 4.55 p.m.

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

Tribute to the memory of four members of the United Nations Disengagement Observer Force

1. The PRESIDENT informed the Conference that four Austrian soldiers of the United Nations Disengagement Observer Force (UNDOF) had been killed and one wounded the previous day in a mine accident on the Golan Heights. As members of the peace-keeping forces, they had gallantly faced the risks of war and had given their lives in the cause of humanity and peace.

On the proposal of the President, the representatives observed a minute of silence.

2. Mr. TUERK (Austria) expressed the profound appreciation of his delegation for the expression of sympathy in connexion with the death of the four young Austrian soldiers who had given their lives in the cause of humanity and peace.
3. The PRESIDENT requested the representative of Austria to convey the sympathy of the Conference to his Government.

Adoption of the rules of procedure (A/CONF.62/L.1; A/CONF.62/WP.1 and Add.1 and WP.2) (continued)

4. Mr. GOERNER (German Democratic Republic) said that the provisions in documents A/CONF.62/WP.1/Add.1 and WP.2 represented a genuine compromise and should be approved so that the rules of procedure could be adopted and the Conference could proceed to discuss substantive issues. In connexion with the question of the adoption of the convention as a whole, he felt a higher majority should be required for it than for individual amendments and proposals. If the convention were adopted by a minority of States, the views of many States would be disregarded, and that would have a negative effect on the implementation of the convention. If any international law was to be universally valid, it should be accepted by all States and should be binding on all States. He therefore supported the voting formula proposed in Conference Room Paper No. 5. If agreement on that formula could not be reached, however, he would accept the formula proposed in document A/CONF.62/WP.1/Add.1 as it stood.

5. Mr. SARAIVA GUERREIRO (Brazil) said that, although he was not fully satisfied with the proposals in document A/CONF.62/WP.1, he would accept the document so that a consensus could be reached. He would not, however, be opposed to the deletion of the proposed new article 40A contained in document A/CONF.62/WP.1/Add.1.

6. With regard to the question of whether there would be a single convention, as agreed in principle in General Assembly

resolution 3067 (XXVIII), which had been supported by his delegation, he said that it might prove to be more logical and convenient to have more than one convention.

7. Mr. THOMPSON (Jamaica), appealing to representatives to accept a consensus, invited the representative of the United Republic of Tanzania to reconsider his suggestion that the new rule 40A should be deleted. It was important to take a decision at the present stage on the procedure for adopting the final convention in order to prevent a procedural debate later when there would be less hope of reaching a consensus. The second part of rule 40A, beginning "unless the Conference . . ." could well be deleted. He also proposed that the following should be inserted as a new paragraph 2 of rule 40A: "The procedures outlined in rule 37 shall not apply to paragraph 1 of this rule"

8. Mr. ENGO (United Republic of Cameroon) noted that the first part of new rule 40A stated that the Conference would adopt the convention by a two-thirds majority of those present and voting, while the second part of the rule seemed to leave the question open. He felt that the second part of the rule should be deleted because it was superfluous, since under rule 64 the Conference could amend any rule of procedure by a two-thirds majority of those present and voting.

9. He invited the representative of Jamaica to reconsider his proposal to add a second paragraph to the new rule 40A, as it too seemed unnecessary.

10. The PRESIDENT agreed that rule 64 could be applied at any time. The second part of rule 40A had been included to allay the fears of certain delegations. He expressed the hope that the Conference could reach agreement, without a vote, on the question of voting on the convention as a whole.

11. Mr. KOLOSOVSKY (Union of Soviet Socialist Republics) noted that although there had been considerable discussion and informal consultation on basic procedural questions, agreement had not yet been reached on the question of the majority required in votes in the Main Committees and in the Plenary. A simple majority of members present and voting would not be satisfactory, since that could represent in some cases a small minority of the participants at the Conference. If the basic method of decision-making was to be by consensus, the majority required in a vote should logically be as close as possible to a consensus, for example, a two-thirds majority of participants. If that was not acceptable, the majority required to adopt the convention as a whole should be higher than that required for the adoption of individual articles, and should be a two-thirds majority of all participants at the Conference. It