

Third United Nations Conference on the Law of the Sea

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Summary Records of Plenary Meetings 19th 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)

51. Both the Conference and the convention that would come out of it were different from other conferences and conventions in that while States could refuse to sign or ratify the convention they could not effectively reject it. For example, fishermen from States not parties to the convention who were caught exploiting the waters in the economic zone of another State party to the convention, would in all likelihood be punished.

52. The proposals made in Conference Room Paper No. 5, while submitted by his delegation, comprised suggestions by other delegations including those of Ecuador, Spain and Bulgaria, and also suggestions by the President himself. While document A/CONF.62/WP.1 included many of the traditional procedures for achieving agreement, his delegation did not feel that it was adequate and although the proposals in Conference Room Paper No. 5 had been largely accepted, his delegation

did not wish to be the only one to insist on its proposals. He was certain that the President would endeavour to ensure that the gentleman's agreement was implemented.

53. Before being amended by the President, the new rule 40A had been meaningless since it held out false hopes that a majority higher than that of the two thirds present and voting might be achieved. His delegation agreed that there should be further consideration of ways of adopting the final convention.

54. The PRESIDENT said that if the Conference wished to arrive at a general agreement and did not wish to vote on the rules of procedure, it would have to avoid controversy by accepting the amended rule 39 and by deferring the decision on the procedure for adopting the convention.

The meeting rose at 7.35 p.m.

19th meeting

Thursday, 27 June 1974, at 12.45 p.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, WP.2, WP.3, and WP.4) (continued)

1. The PRESIDENT recalled that, in accordance with an earlier decision, the Conference was to consider the gentleman's agreement, together with the amended versions of rules 37, 39 and 54 which were closely related to the agreement.

2. He read out the declaration which appeared in document A/CONF.62/WP.2:

"Bearing in mind that the problems of ocean space are closely interrelated and need to be considered as a whole and the desirability of adopting a convention on the law of the sea which will secure the widest possible acceptance,

"The Conference should make every effort to reach agreement on substantive matters by way of consensus and there should be no voting on such matters until all efforts at consensus have been exhausted."

3. If there was no objection, he would take it that the Conference adopted the declaration.

The declaration was adopted by consensus.

4. Mr. MHLANGA (Zambia) said it was his impression that the gentleman's agreement would also appear as an appendix to the rules of procedure.

5. The PRESIDENT suggested that the declaration should appear as an appendix to the rules of procedure. If there was no objection, he would take it that the Conference agreed to his suggestion.

It was so decided.

6. Mr. WARIOBA (United Republic of Tanzania) said it was his understanding that the gentleman's agreement would be referred to in the rules of procedure but would not appear as an appendix. Since a decision had already been taken, he wished to place on record his formal reservation on the point.

7. The PRESIDENT drew attention to rules 37 and 39 of the rules of procedure (A/CONF.62/L.1) and to the amendments which appeared in documents A/CONF.62/WP.1 and Add.1, WP.2, WP.3 and Add.1 and WP.4. The amendments had been proposed on the understanding that the gentleman's agreement would have to be officially adopted by the Conference and, as was stated in paragraph 2 of document A/CONF.62/WP.1, they formed a whole, every part of which constituted an essential element.

8. If there was no objection, he would take it that the amendments would be adopted as they were read out.

Rule 21 (A/CONF.62/WP.1)

Rule 21, was adopted.

Rule 28 (A/CONF.62/WP.1)

Rule 28, was adopted.

Rule 36 (A/CONF.62/WP.1)

Rule 36 was deleted.

Title of Chapter VI (A/CONF.62/WP.4)

The title of chapter VI was adopted.

Rule 37

Title

The title of rule 37 "Requirements for voting" was adopted.

Paragraph 1 (A/CONF.62/WP.1)

Paragraph 1 was adopted.

Paragraph 2

Subparagraphs (a) and (b) (A/CONF.62/WP.3)

Subparagraphs (a) and (b) were adopted.

Subparagraph (c) (A/CONF.62/WP.1)

Subparagraph (c) was adopted.

Subparagraph (d) (A/CONF.62/WP.3)

Subparagraph (d) was adopted.

Subparagraph (e) (A/CONF.62/WP.1)

Subparagraph (e) was adopted.

Paragraph 3 (A/CONF.62/WP.1)

Paragraph 3 was adopted.

Rule 39

Paragraph 1 (A/CONF.62/WP.3)

Paragraph 1 was adopted.

Paragraph 1A (A/CONF.62/WP.3/Add.1)

Paragraph 1A was adopted.

Paragraphs 2 and 3 (A/CONF.62/L.1)

9. The PRESIDENT said it was his understanding that all the other amendments to paragraphs 2 and 3 appearing in document A/CONF.62/L.1 had been withdrawn. If there was no objection, he would take it that that was the case.

Paragraphs 2 and 3 were adopted.

Rule 54

Subparagraph (b) (A/CONF.62/WP.1)

Subparagraph (b) was adopted.

Subparagraph (d) (A/CONF.62/WP.3)

10. Mr. YANKOV (Bulgaria), referring to subparagraph (d), suggested that the word "provided" should not be repeated and that in the fourth line the term "provided for by" should be replaced by "in conformity with".

11. Mr. ROSENNE (Israel) suggested a minor drafting change in subparagraph (d) to bring it into line with the changes made in paragraph 2 of rule 37 at the previous meeting. He therefore proposed that the words "the deferment of the question of taking a vote" should be used.

12. The PRESIDENT said that the other amendments to subparagraph (d) had been withdrawn. If there was no objection, he would take it that the subparagraph was adopted, with the further amendments that had just been proposed.

Subparagraph (d) was adopted.

13. The PRESIDENT said that, since the remaining amendments to rule 54 had been withdrawn, the rest of the rule would remain as worded in document A/CONF.62/L.1.

Appendix

14. The PRESIDENT said that if there was no objection, he would take it that the Conference wished to delete the present text of the appendix to the rules of procedure, in conformity with the amendment in paragraph 10 of document A/CONF.62/WP.1. The text of the declaration endorsed at the beginning of the meeting would appear in its stead.

It was so decided.

15. The PRESIDENT drew the attention of members of the Conference to document A/CONF.62/WP.4 and asked them to consider the amended rules therein.

Rule 16

16. The PRESIDENT said that, if there was no objection, he would take it that the Conference wished to adopt rule 16.

Rule 16 was adopted.

Rule 32

17. The PRESIDENT said he understood that the amendments to the rule appearing in document A/CONF.62/L.1 had been withdrawn.

18. If he heard no objection, he would take it that the Conference wished to adopt rule 32 as it appeared in document A/CONF.62/WP.4.

Rule 32 was adopted.

Rule 51A

19. The PRESIDENT said it was his understanding that, if the present new rule was adopted, the amendment to rule 60 put forward by the Italian delegation (see A/CONF.62/L.1) would be withdrawn.

20. If there was no objection, he would take it that the Conference wished to approve rule 51A.

Rule 51A was adopted.

Rule 52

21. The PRESIDENT said it was his understanding that, if the text of the rule was adopted, the amendments to it appearing in document A/CONF.62/L.1 would be withdrawn.

22. If there was no objection, he would take it that the Conference wished to adopt rule 52 as it appeared in document A/CONF.62/WP.4.

Rule 52 was adopted.

23. The PRESIDENT said that the Turkish delegation had now proposed instead of the addition of a new paragraph 52A,

the addition of the following new paragraph to rule 52:

"Without prejudice to paragraph 1 of this rule, the sponsor or a representative of the group of sponsors of a proposal shall be invited to the appropriate meetings of the Drafting Committee and may participate, without the right to vote, in the discussion at the discretion of the President, in case the Conference or a Main Committee decides to refer that proposal to the Drafting Committee without taking a decision thereon." The Holy See had withdrawn its own proposed amendment to rule 52, in the light of the agreed addition of rule 51A.

24. Mr. WARIOBA (United Republic of Tanzania) observed that, during the lengthy debate on the composition of the Drafting Committee, it had been agreed that the membership of the Committee should be reduced, and the figure of 23 members had finally been agreed upon. It should be noted that the function of the Drafting Committee was to draft and revise texts whereas substantive decision-making was the function of the Plenary Conference and the Main Committees.

25. The Turkish proposal meant not only referring questions to the Drafting Committee for negotiation, but also authorizing open-ended participation in the work of that body; his delegation therefore felt that the proposal should be rejected.

26. Mr. OGUNDERE (Nigeria) said he wondered whether the Turkish proposal was really necessary, in view of the fact that rule 51A had already been adopted.

27. Mr. LAPOINTE (Canada) said that his delegation also had serious reservations about the Turkish proposal.

28. In a spirit of compromise, however, he would agree that the sponsor of a proposal could be invited to the Drafting Committee if it was borne in mind that such an invitation would be within the discretion of the Committee Chairman, so that participation by sponsors would be limited. Accordingly he appealed to the Tanzanian delegation to reconsider its position.

29. Mr. AKYAMAC (Turkey) joined in the appeal made by the Canadian representative. The proposed additional paragraph, which contained new elements, was a compromise formula and therefore constituted a joint proposal.

30. Mr. VALENCIA RODRIGUEZ (Ecuador) said that his delegation, after examining the new proposed text, wished to reiterate the opinion it had expressed in the informal meeting, namely, that the new rule 51A, which, incidentally, had already been adopted, would be sufficient to enable sponsors or representatives of sponsors to participate in the deliberations of the Drafting Committee, without the right to vote, in order to express their views. There was thus no need for a new provision. However, his delegation would go along with the majority view.

31. Mr. ABDEL HAMID (Egypt) said that the proposed additional paragraph would create many difficulties. He therefore urged that the proposal be withdrawn.

32. Mr. WARIOBA (United Republic of Tanzania) said that, although he still disagreed with the idea behind the proposal, he would not press for a vote on the question raised by his delegation, although he did wish to place his reservations on record.

33. The PRESIDENT said that, if there was no objection, he would take it that the Conference agreed to add the proposed new text to rule 52 as a second paragraph.

It was so decided.

The meeting rose at 1.30 p.m.