

# **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.2**

## **Summary Records of Plenary Meetings**

### **2<sup>nd</sup> 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)*

in the Committee on the sea-bed and it thought that no one was better qualified to be President of the Conference—a view which had been borne out by his unanimous election. As the Secretary-General had said, time was running out; the problems of the law of the sea must be solved now.

28. The PRESIDENT said that he was very grateful for the congratulations and support which had been expressed. He would do his utmost to justify the confidence placed in him and he knew from experience that he could rely on the co-operation of all the participants in the Conference.

29. He was sure that all delegations would wish him to convey their thanks to the Government of Venezuela for undertaking to act as host for the first substantive session of the Conference, to be held in 1974.

Adoption of the agenda of the Conference  
(A/CONF.62/1)

30. The PRESIDENT said that if there was no objection, he would take it that the Conference adopted the agenda.

*It was so decided.*

31. Mr. PATRICIO (Portugal), speaking on a point of order, said that the sea was an element essential to the progress and

the survival of mankind, and therefore a just and universal juridical system must be established. His country was participating in the Conference in order to co-operate in the implementation of the principle of universality with regard to the law of the sea, to ensure the protection of its legitimate national interests and to reconcile them with the interests of the international community. As a coastal country with a long maritime tradition Portugal felt it a duty to contribute its experience to the Conference. However, his country's participation in the Conference could not be interpreted as recognition of the so-called Republic of Guinea-Bissau, which did not fulfil any of the requirements of international law for any form of recognition. His delegation protested against the participation in the Conference of any persons representing that fictitious State. It requested that its statement and the fact that the Secretariat had sent to Conakry an invitation to the fictitious Government should be included in the record of the meeting.

32. The PRESIDENT said that the representatives of the Republic of Guinea-Bissau were participating in the Conference by the decision and at the invitation of the General Assembly.

*The meeting rose at 4.55 p.m.*

## 2nd meeting

Friday, 7 December 1973, at 4.55 p.m.

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

### Results of informal consultations

1. The PRESIDENT said that he had held consultations with the chairmen of the regional groups and the United States representative about the structure and organization of the Conference and the composition of its important bodies. Tentative agreement had been reached about the composition of the General Committee and the Drafting Committee. Firm agreement had been reached about the constitution of three Main Committees which would deal with the subjects covered by the three sub-committees of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction.

2. It had been tentatively agreed that the General Committee would consist of 48 members: 12 each from the African and Asian groups, 9 from the Latin American countries, 9 from the Western European and others group and 6 from the Eastern European group. Those figures would include as *ex officio* members the President and Rapporteur-General of the Conference, the Chairmen of the three Main Committees and the members of their bureaux, and the Chairman of the Drafting Committee. It had been tentatively agreed that the Drafting Committee would consist of 23 members comprising 6 each from the African group and Asian groups, 4 from the Latin American group, 5 from the Western European and others group, and 2 from the Eastern European group. It had been firmly agreed that each of the three Main Committees would have, in addition to a chairman, three vice-chairmen and a rapporteur and that each group would have one representative in the bureau of each Main Committee.

3. The Chairmen of the three Main Committees and the Chairman of the Drafting Committee were regarded as having equal status. It was understood that the Chairman of the First Main Committee would come from the African group, the Chairman of the Second Main Committee from the Latin American group, the Chairman of the Third Main Committee

from the Eastern European group and the Chairman of the Drafting Committee from the Western European and others group, so that each regional group would hold one important office. The post of Rapporteur-General of the Conference had been assigned to the Latin American group. In addition, the Conference would have 30 vice-presidents: 9 from the African group, 8 from the Asian group, 5 each from the Latin American and the Western European and others group and 3 from the Eastern European group.

4. It would also be necessary to appoint a Credentials Committee, with which he did not propose to deal at that stage. He thought, however, it might be possible to adopt for each session of the Conference the Credentials Committee which had served the immediately preceding session of the General Assembly.

5. If the Conference agreed, he would suggest that the vice-presidents of the Conference, the vice-chairmen of the Main Committees and the members of the Drafting Committee should be elected by country.

*It was so decided.*

6. The PRESIDENT suggested that the Chairman and Rapporteur of the three Main Committees, the Chairman of the Drafting Committee and the Rapporteur-General of the Conference should be elected in a personal capacity.

*It was so decided.*

7. The PRESIDENT suggested that, in the event of its becoming necessary to replace any of the Chairmen or Rapporteurs of the three Main Committees or the Chairman of the Drafting Committee, the regional group to which the post had been allocated should nominate the candidate.

*It was so decided.*

8. Mr. MAHMOOD (Pakistan) inquired whether the Drafting Committee would have vice-chairmen and a rapporteur and whether they would be *ex officio* members of the General Committee.

9. The PRESIDENT replied that although the Drafting Committee was free to appoint such officers as it required, they would not be *ex officio* members of the General Committee.

10. Mr. ZELAYA (Nicaragua) said that his delegation was prepared to co-operate in every way to ensure the success of the Conference which dealt with a matter of considerable importance to the stability of international order. It wished, however, to put on record at the outset that Nicaragua had constitutional limitations with regard to the form and substance of the matter to be considered. Furthermore, he hoped that the system of coming to decisions in private after consultations with limited groups would be abandoned in favour of a more appropriate procedure designed to give representatives time to form their views on the matter under discussion.

11. The PRESIDENT said that as a matter of convenience he had consulted with the chairmen of the regional groups who had had a mandate from their respective groups.

12. Mr. AKE (Ivory Coast) said that he did not question the arrangements which had been made about the allocation of seats on the General Committee, but he wished it to be recorded that he had drawn attention to the fact that equitable geographical distribution had not been respected; Africa was under-represented: the Eastern European group which consisted of 11 States had 6 seats, whereas the African group consisting of 42 States, without counting those under colonial domination, had only 12 seats.

13. Mr. WARIOBA (United Republic of Tanzania) said that the General Committee and the Drafting Committee were disappointingly large and he agreed with the representative of the Ivory Coast that the composition of the two bodies did not reflect equitable geographical distribution. Those facts, however, had already been discussed and accepted by the regional groups. If any delegation was still experiencing difficulties, it should make them known, but some considerable time had already been spent on the matter. He suggested that the Conference should proceed to discuss the adoption of the rules of procedure concurrently with further consultations, if required, on the composition of the main bodies.

14. Mr. STEVENSON (United States of America) said that no agreement had been reached about the basis on which the United States would participate in the General Committee or the Drafting Committee. He had however no objection to proceeding to a discussion about the rules of procedure while consultations on the other matter were continuing.

15. Mr. DRISS (Tunisia) said that his delegation had accepted the proposals announced by the President in a spirit of compromise in order to enable the Conference to start its work. However, the possibility should be left open of reviewing the number of main committees in the light of future requirements, since the Conference might last for a considerable time. He agreed that Africa was under-represented. Although his delegation was prepared to agree to the nomination by regional groups of replacements, if necessary, for the chairmen of the three Main Committees and the Drafting Committee, the principle of the sovereignty of States should not be disregarded.

16. Mr. WAPENYI (Uganda), speaking as the Chairman of the African group, said that his group had proceeded on the understanding that the African group comprised 42 countries, the Asian group 41 countries, the Latin American group 25 countries, the West European group together with the United States 28 countries and the Eastern European group 11 countries. On that understanding, the seats on the General Committee had been allocated as announced by the President. It had been stressed that the United States was being regarded as a member of the Western European and others group. The same principle had been followed with regard to the allocation of seats on the Drafting Committee. The Western European and others group had been given an extra seat in order to accommodate the United States.

17. Mr. HADDAD (Lebanon), speaking as Chairman of the Asian group, said that the agreement announced by the President had been explicitly and unanimously accepted by his group.

18. Mr. BOJILOV (Bulgaria), speaking as Chairman of the Eastern European group, said that he confirmed the statement made by the Chairman of the African group. The arrangements announced by the President had been discussed and unanimously accepted by his group.

19. Miss FLOURET (Argentina), speaking as Chairman of the Latin American group, agreed with the Chairman of the African group on the terms of the arrangement. In addition, the Latin American group had adopted the decision that no one country would occupy more than one of the seats or posts allocated to the group.

20. Mr. KNOKE (Federal Republic of Germany), speaking on behalf of the group of Western European and other States, said that difficulties had arisen because the other groups wanted the United States to be included in the Western European group. The tentative agreement on the composition of the Drafting Committee was that the Western European group should be allocated five seats, on the understanding that one seat would go to the United States. The Western European group would be happy to consider an application for membership of the group submitted by the United States—but not unconditionally.

21. Mr. POCH (Spain) said that the United States had never been a member of the Western European and others group and it was therefore not true to say that a seat in the Drafting Committee would be allocated to the United States at the expense of that group. The agreement had been to allocate to the group four seats, plus one seat for the United States. Indeed the group had asked for only four seats. If, however, the group received five seats, there must be no stipulation as to their allocation.

22. The PRESIDENT said that the Western European and others group had in fact been allocated five seats in the Drafting Committee, on the understanding that one seat would go to the United States. There would be no objection if the Western European and others group wished to view the allocation as four plus one seat.

23. Mr. ZEGERS (Chile) pointed out that the Conference now had only one week left in which to decide on its structure and composition and its rules of procedure. It was vital that those matters should be decided before the second session in Caracas.

24. He was aware of the difficulties involved, but suggested that Monday, 10 December, should be set as the deadline for discussion of structure and composition, so that the Conference could then move on to the rules of procedure. There could be no discussion of rules of procedure before the other matters had been settled. The Conference must reach agreement quickly because the success of its substantive sessions was at stake.

25. Mr. CISSE (Senegal) said that he wished to correct the impression which seemed to have arisen that the African countries were trying to repudiate the agreement reached during the informal consultations. His fellow members of the African group had merely stated that the compromise agreement fell far short of their hopes in that Africa would be under-represented under that agreement. He agreed with the representative of India that the door should be left open for a review of the structure of the Conference at Caracas or Vienna. He urged that the compromise agreement should be accepted by all countries.

26. Mr. WARIOBA (United Republic of Tanzania) said it was not for the Conference to discuss or try to solve the problems of one group. If the Western European group had a problem concerning the membership of one country in the group, they must solve it themselves. Otherwise the Conference

would never be free of problems. The Conference had reached agreement on its structure and composition and should now move on to the nomination of candidates.

27. Mr. NJENGA (Kenya) endorsed the view that the African group was under-represented and that individual groups should solve their own problems. He had always thought that the Western European group included the United States. That was why the African group had agreed that the allocation of seats in the General Committee to the Western European group should be increased from eight to nine. His delegation agreed that the Conference should move on to the rules of procedure at its next meeting but it would not agree to any further informal negotiations.

28. Sir Roger JACKLING (United Kingdom) said that the President had correctly described the agreement reached during the informal consultations as "tentative"; there were still difficulties to be overcome. It was clear from the statements which had been made that the Conference was not yet in a position to translate the tentative agreement into a definite one. With due respect to the representative of the United Republic of Tanzania, his delegation felt that that was a problem for the Conference to discuss, but that it was not likely to improve matters by discussing that problem further in plenary. It was not a minor matter, but a question of the structure of the Conference; the difficulties involved were illustrated by the fact that consultations had been going on since October. It was not surprising that the informal consultations of the past few days had not yet led to a definite decision.

29. He urged that the debate should be closed so that further consultations could be held over the week-end in the hope of reaching a definite decision by Monday, 10 December. He could not, however, share the view of the representative of Chile that a deadline should be set. His delegation was ready to agree that the Conference should note that consultations had not yet been completed on the questions of structure and composition and that it should go on to discuss the rules of procedure.

30. Mr. MIGLIUOLO (Italy) agreed that the problem was one for the Conference to discuss; the point was that some groups were willing to give one or two offices to one member of the Conference but did not seem to want to name the country concerned. It was common knowledge that one country had never belonged to any geographical group in the United Nations. If the Western European group had difficulty in accepting an allocation of five seats on condition that one seat should be allocated to a specific country which was not a member of the group, then that did create a problem for the whole Conference.

31. His delegation would welcome an application by the United States for membership in the group, but the United States had never expressed any desire to join. Thus, his delegation had difficulty in accepting the conditional allocation of five seats. It hoped that other delegations would realize that the Western European and others group was not raising a frivolous objection. It certainly wished to hold further negotiations on all aspects of the problem and to dispose of it before the session in Caracas. The successful inauguration of the Conference depended on its reaching a compromise agreement acceptable to all members.

32. The PRESIDENT said he wished to stress that at least four of the group chairmen had agreed on the allocation of five seats in the Drafting Committee to the Western European group, on the understanding that one seat would go to the United States. Without that condition the other groups would not have agreed to the allocation of five seats to the Western European group. If that agreement was now being repudiated, the consultations must begin all over again.

33. Mr. BOATEN (Ghana) said that his delegation stood by the agreement reached during the informal consultations. The Conference would be faced with a problem only if one group

was now repudiating that agreement. He hoped that the Western European group was not yet in an impasse and would be able eventually to accept the agreed conditions. Clearly, if the difficulties of the Western European group must be settled before the Conference could move on to other business, then those difficulties did constitute a problem for the whole Conference. It might in fact be better to move on immediately to the next item, in the hope that the Western European group would solve the problem over the week-end. If the Western European group failed to find a solution, the Conference would have to re-examine the question of its structure and composition.

34. Mr. Saraiva GUERREIRO (Brazil) said that, provided there was not too much delay, the Conference should try to complete the election of officers before taking up the rules of procedure. Perhaps it would be useful to set a deadline of 3 p.m. on Monday, 10 December. His delegation had always thought that there were only five geographical groups; it had not been aware of the existence of a sixth.

35. Mr. HARRY (Australia) said that it should be made clear that the Western European group included such countries as his own among "other States". The problem for the Conference arose because the United States was not a member of any regional group. The Western European group had 27 members and had been allocated nine seats in the General Committee and four in the Drafting Committee. The Latin American group, with 25 members, had received the same allocation of seats.

36. His delegation welcomed the decision by the Latin American group that no country should hold more than one office. If that principle were generally adopted, the Conference's task would be simplified. But there was a need for realism: the great Powers expected to have seats in both the General Committee and the Drafting Committee. The problem was not a result of a stubborn insistence on the part of the Western European group or any one country that it should be allocated more seats; it arose from the facts of life: the Western European group included three permanent members of the Security Council.

37. Mr. WAPENYI (Uganda) said that the whole point of the tentative agreement was that it accommodated the United States. All groups had agreed that the formula was lopsided. On the basis of proportional representation, Africa would have received most seats, followed by Asia, Latin America, Western Europe and Eastern Europe. The under-represented groups were aware of that but had agreed to compromise. His delegation hoped that the Western European group would also be willing to compromise and that the question would not be reopened.

38. Mr. KNOKE (Federal Republic of Germany), speaking as Chairman of the Western European and others group, said he wished to assure the Ghanaian representative that he had merely informed his group of the tentative agreement reached in the consultations between the group chairmen and the President, and that the members of the group had expressed willingness to make every effort to reach a compromise. Accordingly, there had been no breach of the tentative agreement.

39. The PRESIDENT pointed out that, since the agreement was tentative, groups were still free to change their positions in the event of any deviation from it. Personally, he had thought that, with the acceptance of the agreement by all the groups, the possibilities of agreement on the structure of the Conference had been practically exhausted. In the light of the reservations that were now being made, however, the best course might be to cancel the meeting scheduled for the morning of Monday, 10 October, in order to enable the groups to consult further on the outstanding issue concerning the structure and to reach agreement on problems relating to the rules of procedure. In his view, it would then be best to proceed to the election of officers in accordance with the agreement before adopting the rules of procedure. The Conference might agree that, while it did not yet have its own rules of procedure for the

elections, it could follow the rules of the General Assembly in that respect: although it was not an organ of the Assembly, it had been convened by that body and, moreover, the Assembly rules were generally accepted as standard rules of procedure.

40. Mr. CASTAÑEDA (Mexico) said he could not see why the Conference could not forthwith adopt the structure outlined by the President, since there had been no formal objection to the tentative agreement as it had been announced. The difference of opinion on whether the number of seats on the Drafting Committee allocated to the Western European and others group should include the United States was surely a question which did not affect the composition of the General Committee, the Main Committees and the Drafting Committee. He proposed that the Conference should be asked whether there were any formal objections to the structure that had been read out and, if there were none, that the specific problem of the representation of the Western European and others group in the Drafting Committee should be left for that group to settle with the United States delegation. Unless that procedure was followed, there was a danger that the tentative agreement might disintegrate by the next meeting, with certain representatives claiming more seats for their regions and even proposing increases in the membership of the General Committee. There would also be the danger that the discussion on the structure of the Conference would obtrude on the debate on the rules of procedure, a situation which would cause considerable confusion.

41. Mr. ZULETA TORRES (Colombia) supported the Mexican proposal. It would indeed be undesirable to create a link between the structure of the Conference and the rules of procedure.

42. Mr. ZEGERS (Chile) also supported the Mexican proposal, since considerable complications might arise if the Conference failed to reach a rapid decision on its structure. Elections to the posts on which agreement was thus reached could be held on the basis of the rules of procedure of the General Assembly, as the President had suggested. The tentative agreement should be consolidated at the current meeting; otherwise the Conference would find it very difficult to complete its work in the time allotted to it.

43. Mr. BEESLEY (Canada) said that the post of Chairman of the Drafting Committee, which the Western European and others group had decided to accept, was both onerous and important. While the same could be said of other posts, that particular post was unique in two respects. In the first place, the Chairman of the Drafting Committee would be entitled to participate in both the Drafting Committee and the General Committee, with the result that the delegation whose national occupied the position would have double representation. The second important point was that precisely because of that double representation, the group to which the delegation in question belonged would have one less post to divide among its members. Thus, if the Western European and others group were to receive 13 posts, it could accommodate only 12 delegations.

44. A possible solution might be to agree that the Chairman of the Drafting Committee should not be given full membership in the General Committee. While he would participate in its meetings as of right, he would have no vote, if the question of a vote should arise. In those circumstances, a further post could be allocated to the Western European and others group, to assist it in working out an accommodation with the United States of America. Thus the additional post would not give that group any additional voting rights, but would allow it one additional post to allocate, putting it on the same footing as the

other groups. In that way, 13 posts could be divided among 13 delegations rather than 12.

45. To sum up, the solution might be to give the Chairman of the Drafting Committee no right to vote in the General Committee, by analogy with the situation of the Rapporteur-General in the Drafting Committee, and not to count that Chairman's post when allocating seats on the General Committee to the group in question.

46. Mr. WARIOBA (United Republic of Tanzania) supported the Mexican proposal. The Conference should agree at once on a membership of 48 for the General Committee and 23 for the Drafting Committee, whatever position was finally decided on for the United States of America. The Canadian suggestion seemed to provide no solution: even if an *ex officio* member had no right to vote, he could have considerable influence in the General Committee, and the country to which the Chairman of the Drafting Committee belonged would still in effect have double representation.

47. Mr. BOATEN (Ghana) said that the adoption of the Canadian suggestion would raise serious problems. The best course would be to give the groups time for further consultations.

48. Mr. DJALAL (Indonesia) said that, since the problem of accommodating the United States of America seemed to be the concern of one regional group, he would have thought that the Conference as a whole should not have been called upon to consider the issue. Nevertheless, since it had been decided otherwise, the Conference might do well to accept the principle of one seat for one State, for which some groups had opted voluntarily.

49. The PRESIDENT said that, although that solution had been suggested during the informal consultations, it had been decided that the principle in question could not be imposed on any group.

50. Miss FLOURET (Argentina) supported the Mexican proposal and expressed the hope that it would be put before the Conference.

51. Mr. SHITTA-BEY (Nigeria) suggested that the substance of the tentative agreement should be circulated in a document. The issue was not one of any given group reneging on the agreement. He hoped that the Mexican representative would not press for a decision on his procedural proposal at the current meeting.

52. The PRESIDENT said that a document on the subject would serve no useful purpose and that the best course was to continue to proceed through group representation, rather than through the expression of views by individual delegations. Perhaps the Conference would wish to follow the Mexican proposal.

53. Mr. KNOKE (Federal Republic of Germany), speaking as Chairman of the Western European and others group, proposed that the debate should be adjourned until the afternoon of Monday, 10 December.

*It was so decided.*

54. Mr. STEVENSON (United States of America) said that his delegation maintained the reservation that it had expressed earlier.

55. Mr. SHITTA-BEY (Nigeria) said that the statements of the Chairman of the African group did not express the views of his delegation, since there had been no opportunity for the necessary consultations.

*The meeting rose at 7.20 p.m.*