

Third United Nations Conference on the Law of the Sea

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Summary Records of Plenary Meetings 4th 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)

3rd meeting

Monday, 10 December 1973, at 4 p.m.

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

Results of informal consultations

1. The PRESIDENT said that he had held further informal consultations with the chairmen of the regional groups and the representative of the United States concerning the number and distribution of seats in the General Committee, the three Main Committees and the Drafting Committee. It had been agreed that the General Committee would consist of 48 seats distributed as follows: African group—12; Asian group—12; Latin American group—9; Western European group—9; Eastern European group—6. The seats would be filled by the President, 31 Vice-Presidents, 15 members drawn from the officers of the three Main Committees, and the Rapporteur-General. Each Main Committee would have a Chairman, three Vice-Chairmen and a Rapporteur, each officer being drawn from a different regional group. The 31 posts of Vice-President of the General Committee would be distributed as follows: African group—9; Asian group—8; Latin American group—5; Western European group—6; Eastern European group—3. The post of Rapporteur-General would be allocated to the Latin American group. The Drafting Committee would have 23 seats distributed as follows: African group—6; Asian group—6; Latin American group—4; Western European group—5; Eastern European group—2.
2. The African, Asian, Latin American and Eastern European groups understood that any United States candidature

would be accommodated in the allocations to the Western European group. The Chairman of the Drafting Committee would have the right to participate in the meetings of the General Committee without the right to vote and the Rapporteur-General would have the right to participate in meetings of the Drafting Committee without the right to vote.

3. It had further been decided that the elections, which would take place at the next meeting, should be by acclamation, unless there were more candidates than seats.

4. If there was no objection, he would take it that the Conference adopted the arrangements he had set out.

It was so decided.

5. The PRESIDENT said that agreement had been reached only with great difficulty and had been made possible by the spirit of co-operation and understanding shown by all concerned. He hoped that the Conference would be able to conclude the elections very quickly. Much work remained to be done on the rules of procedure and it must be clearly understood that organizational matters, which were the business of the present session, could not be deferred until the Caracas session. Thus, the Conference must complete its work by Friday, 14 December. He appealed to the Conference to be ready to begin consideration of the draft rules of procedure at the next meeting, after the elections had been held.

The meeting rose at 4.10 p.m.

4th meeting

Tuesday, 11 December 1973, at 12.15 p.m.

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

Results of informal consultations

1. The PRESIDENT noted that the next item on the agenda was the adoption of the rules of procedure and recalled the decision taken at the 2nd meeting, at his suggestion, that the Conference should be guided by the rules of procedure of the General Assembly, in so far as they were applicable, until it had adopted its own rules of procedure. Before discussing the rules of procedure, he suggested that the Conference should elect the officers of its Main Committees and the Drafting Committee so that those bodies could begin their work. He informed the Conference that certain regional groups had not yet reached agreement on the candidates they wished to put forward and had asked for further time to consider the matter.
2. Mr. LING Ching (China) formally proposed that before the Conference proceeded to elect the remaining officers it should take a decision on the principle of one State, one seat, concerning which divergent views had been expressed. The Asian, African and Latin American groups had indicated their support for that principle, a position which his delegation endorsed in view of its long-standing conviction that all countries, large or small, should have equal rights and that no country, however powerful, should enjoy a privileged position at an international conference. It should be noted that only the two super-Powers were asking for more than one seat. That was an unfair and unreasonable manifestation of super-Power hegemony, which his delegation firmly opposed.

3. The PRESIDENT said that no agreement had been reached in the informal consultations regarding the principle of one State, one seat, and he had not expected the matter to be raised at a plenary meeting. He pointed out that it was not correct to say that only two States were seeking election to more than one seat. In his informal consultations with the chairmen of the regional groups, it had been agreed that no group should seek to dictate to others what candidates might be put forward.

4. Mr. WARIOBA (United Republic of Tanzania) proposed that, if the matter of elections could not be settled in informal consultations before the next meeting, the Conference should proceed to the next item, namely, adoption of the rules of procedure. It would be most unfortunate if, for lack of time, the Conference could not reach agreement at the present session on its agenda, thus detracting from the time available for the discussion of substantive matters at the second session.

5. Mr. KOLESNIK (Union of Soviet Socialist Republics) said that from the outset his delegation had supported the view that each regional group should itself decide which candidates it wished to put forward for key seats in the organs of the Conference. The so-called one State-one seat principle had nothing to do with what one representative had just said about the possibility of certain States achieving hegemony. The assertions of that representative should be categorically rejected. The Charter clearly stipulated that the five permanent members

of the Security Council bore the primary responsibility for the maintenance of international peace and security; that was a reflection of the actual state of affairs in the world. The concerted action of those five Powers determined the maintenance of world peace. Their special responsibilities carried with them certain rights which were also recognized and laid down in the Charter.

6. At all past international conferences dealing with matters affecting the international community as a whole, including conferences on the codification of international law, the permanent members of the Security Council had always been given seats both on the General Committee and the Drafting Committee. He saw no reason why the present Conference should depart from that precedent, especially since the law of the sea was dependent just as much as any other branch of international law on the maintenance of international peace.

7. He endorsed the remarks made by the representative of the United Republic of Tanzania. It would be as well for the Conference to begin consideration of its rules of procedure, so as to allow time to the regional groups to reach final agreement on the distribution of seats in the organs of the Conference. Such agreement should be reached by consensus, not by vote, especially in view of the provisions of the gentleman's agreement approved by the General Assembly (see A/CONF.62/2).

8. The PRESIDENT said that the gentleman's agreement did not preclude the possibility of voting, but merely expressed the view that the Conference should make every effort to reach agreement on substantive matters by way of consensus. He pointed out that the African, Latin American and Eastern European groups had already agreed on the candidates they would nominate for membership of the organs of the Conference.

9. Mr. BAKULA (Peru) said that his delegation objected to the possibility that certain States should have dual representation at the Conference. It was inadmissible that the Conference should perpetuate an unfair system which his delegation had thought long since defunct. It had been said that the regional groups were sovereign. Nevertheless, the Conference was a legislative conference and political considerations were highly relevant. He did not see how it could be claimed that the decision-making powers of certain States should be increased. It was desirable for the Conference to take a decision on a situation which might well jeopardize its future.

10. Miss FLOURET (Argentina), speaking as the Chairman of the Latin American group, said that the chairmen of the various regional groups had attended several meetings and had followed instructions from their groups which were designed not to infringe the individual rights of States. The intention throughout had been to ensure a balanced membership of the Conference organs. There was no reason why each member State could not make any comments it deemed appropriate concerning the final list of candidates.

11. The Latin American group had decided on the principle of one State, one seat; it had felt that an international law-making conference should not give certain States dual powers in the drafting of future law, even though in international politics there was some room for compromise on the principle of dual representation, in view of the special responsibilities of certain States. She wished to make it clear that she had not committed the Latin American group as a whole to a rejection of the possibility of dual representation in the other regional groups. Each member of her group was free to form its own judgement with respect to the candidates put forward by other groups.

12. Mr. STEVENSON (United States of America) said he endorsed the President's view that the question of representation was something which the regional groups or individual States must decide for themselves and that the one State-one seat principle should not be made binding on the Conference. He pointed out that the Conference would be engaged in inter-

national law-making, an exercise which went far beyond the resolution-making process of the General Assembly. If particular regional groups decided that the interests of their members could best be served by the principle of one seat for one State, that was their prerogative.

13. However, to extend that principle to cover all cases was to lose sight of two very important elements for the success of the Conference. In the first place, any decisions of the Conference must satisfy all individual States before they became binding, if the final instrument adopted by the Conference was to be acceptable to the vast majority of States. It was thus necessary to seek accommodation in the process of decision-making. Secondly, it was vital to ensure that the views which had to be accommodated in the negotiating process were adequately represented. To that end there must be some deviation from the principle of one seat for each State, so that the different points of view to be accommodated could be taken into account at all the working levels of the Conference.

14. The two elements to which he had referred required evaluation by the individual groups of countries; there was no question of imposing arbitrary rules on the Conference as a whole.

15. Mr. DIAZ GONZALEZ (Venezuela), referring to the statement made by the representative of the United Republic of Tanzania, said that his delegation was concerned at the slow pace of work during the first phase of the Conference. It felt that agreement should be reached that very day on the membership of the various bodies of the Conference; otherwise, the Conference would not be able to complete its work on the rules of procedure that week and the session to be held in Caracas might have to devote a considerable amount of time to procedural matters. It should be remembered that Caracas had been offered as a site for the Conference on the understanding that the session to be held there would be a substantive session.

16. The problems of the sea were complex and many of them required immediate solution. Any postponement of the substantive treatment of those problems was not conducive to the success which all desired. He therefore endorsed the proposal made by the representative of the United Republic of Tanzania to the effect that the next meeting should be devoted to consideration of the rules of procedure if it proved impossible to proceed with the election of officers.

17. Mr. BOJLOV (Bulgaria), speaking as Chairman of the group of Eastern European States, said that when the question of one State, one seat had been raised at the meeting of the chairmen of the regional groups on 5 December, it had been suggested that since one group had been having difficulties on the matter, it would be better to adhere to the principle of one State, one seat. However, all five chairmen had concluded that individual groups should decide for themselves but that their decisions should not be binding on others. The President himself and the Special Representative of the Secretary-General had agreed with that conclusion. On 6 December, the Chairman of another group had stated that his group could support the principle of one State, one seat. Again, it had been agreed that individual groups should decide for themselves. On 7 December, after some representatives had suggested that the Conference might adopt the one State-one seat principle, the President had pointed out that the matter had been discussed and that there was no possibility that the Conference would adopt such a rule. Obviously, the Conference shared the view of the President. The question had again arisen at the meeting of the chairmen of the regional groups on 10 December and it had again been decided that no such rule would be adopted. Subsequently, at the 3rd meeting of the Conference on 10 December, the number of seats on the Drafting Committee to be allocated to each group had been decided. The question had therefore been settled and his delegation was surprised that the representative of China should again raise the issue. If the Conference were now to decide to establish the principle of one

State, one seat, it would mean that one group could impose its decision on the others.

18. Speaking as the representative of Bulgaria, he supported the suggestion of the representative of the United Republic of Tanzania so that the group which was having difficulties might have more time to settle its problem. His delegation categorically objected to the proposal by the representative of China.

19. The PRESIDENT said that he had no objection to the proposal by the representative of the United Republic of Tanzania. However, he believed that it would be better to allow individual regional groups to consider the rules of procedure before discussing it in the plenary.

20. Mr. ZEGERS (Chile) said that his delegation had earlier warned the Conference that there was not much time left to complete its work. He believed that the elections for the offices to be filled could be held during the fifth meeting since a consensus had already been reached. If any group was unable to solve its problems by that meeting, the matter could be put to the Conference for a decision. The President had earlier ruled that until the rules of procedure of the Conference were adopted, those of the General Assembly would apply. The Conference could therefore attempt to solve the problems of structure and posts, through elections, before taking up the rules of procedure.

21. His delegation believed that no State should be denied the right of submitting its candidature for more than one seat. The candidates, however, should be decided on at the group level. All delegations could therefore choose from among those candidates. The matter could be decided at the fifth meeting. His delegation agreed with the President that the rules of procedure should be discussed at the group level before being taken up in the plenary.

22. Mr. SHUKE (Albania) said that his delegation believed that, before electing the officers of the main organs and before adopting the rules of procedure, the Conference must settle the principle of one State, one seat. It was well known that all States were equal, but the fact remained that if the Conference were to succeed, especially in the present international situation, it must endeavour to close all loop-holes that might favour the super-Powers. The Conference should adopt its own rules and not impose any other rule that might have been suitable elsewhere. The Conference had the important task of codifying the law of the sea and the question of one State, one seat should not therefore be referred to the regional groups but should be settled in the plenary. Consequently his delegation wished to emphasize that the Conference should take up the formal proposal that had been made and should not refer to decisions taken elsewhere. No decision had been taken in the plenary.

23. Mr. WAPENYI (Uganda), speaking as Chairman of the African group, said that he wished to record the facts that had led to the present impasse. The views of the African group had been made known to all other chairmen. It did not believe in dictating how others should elect their members; any decision on dual representation was the internal affair of each group.

24. The possibility that one country should be a member of both the General Committee and the Drafting Committee had been contemplated. However, the Chairman of the group of Western European and other States had pointed out that some members of his group had objections. No emphatic objections, however, had been made by any other chairman and he was therefore surprised that the issue was now being raised. He

appealed to those delegations that had raised the issue that in future they should make their feelings known earlier so that the work of the Conference would not be delayed. In the African group, each member would decide for itself on the principle of dual representation. He wished to emphasize that his group, in rejecting automatic membership for permanent members of the Security Council, had made no exceptions. If any other group had made exceptions, that was a matter concerning only that group.

25. Members should be aware that there was little time left for the plenary to take a decision.

26. The PRESIDENT said that, in his view, it was the inherent right of any participating State to put forward candidates of its choice. It was, however, the right of the Conference as a whole to elect its officers from among the candidates put forward.

27. Mr. JEANNEL (France) agreed with the views expressed by the United States and the USSR representatives on the question of dual representation for the permanent members of the Security Council. His country was prepared to claim and assume its responsibilities in that regard. However, it appeared that, in the current Conference, it was the general wish that the long-standing practice of dual representation should not apply. Despite its opposing view, his delegation was prepared to comply with the general wish but stressed that any decision that might be taken should not be regarded as a precedent on future occasions. He had no objection to settling the matter in the context of the regional groups; however, he took exception to the reference that had been made to the alleged sovereignty of the regional groups. Sovereignty was an attribute attaching to States alone, not to groups.

28. He could not agree with the President's suggestion that the rules of procedure of the General Assembly should apply pending adoption by the Conference of its own rules of procedure. The Conference was of course free to take a decision endorsing the President's suggestion, but in the meantime it was operating without any rules of procedure. That meant, *inter alia*, that it would not be possible to decide the problem of elections by means of voting, unless the Conference so decided. At the second meeting it had been observed that the rules of procedure of the General Assembly had been applied in connexion with the election of the President. He denied that assertion: the President had been elected by acclamation; no vote had been taken.

29. His delegation welcomed the Tanzanian proposal. In view of the difficulties that had arisen in regard to the election of officers, the wisest course of action would be to put that question aside for the moment and take up the matter of the rules of procedure. Once the rules of procedure were adopted, it would be possible to settle the question of elections by means of voting, if that was necessary.

30. The PRESIDENT agreed that his reference to the sovereignty of groups had been infelicitous; he had merely meant that the nomination of candidates was customarily accomplished through the regional groups. He noted that, at the time, there had been no objection to his proposal that the Conference should settle the question of elections before adopting its rules of procedure and should, for the former purpose, apply the rules of procedure of the General Assembly. In view of the lateness of the hour, he proposed that the discussion should be continued at the afternoon meeting.

The meeting rose at 1.35 p.m.