

# **Third United Nations Conference on the Law of the Sea**

1973-1982

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Document:-

**A/CONF.62/ SR.5**

## **Summary Records of Plenary Meetings 5<sup>th</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)*

## 5th meeting

Tuesday, 11 December 1973, at 4.20 p.m.

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

### Results of informal consultations

1. Mr. YTURRIAGA BARBERAN (Spain) said that he agreed with the view expressed by several delegations at the previous meeting that the regional groups were free to nominate candidates for election as officers of the Conference. The candidatures should be agreed on a consensus basis within the groups. No group should attempt to influence the position of another. If a group was unable to agree on its candidates, the Conference should take a vote in which all States would be free to vote as they wished.
2. Since the Western European and other States group had so far been unable to reach agreement, his delegation joined the African, Asian and Latin American groups in supporting the Chinese proposal that the principle of single representation should be adopted as a general rule for the Conference. If there were many more candidates than seats, and if dual representation was permitted, the difficulties facing the Conference would be increased. It was a fundamental United Nations principle that all States were sovereign and equal. There was of course no such principle as group sovereignty; each State could put forward as many candidates as it wished, but the Conference could decide not to accept additional candidates nominated by countries seeking more than one office. The members of the Western European and other States group had almost reached agreement that the principle of single representation should be applied without exception. If that principle was accepted, the problem concerning the Western European and other States group would be solved and the Conference could move on to other matters.
3. Mr. LING Ching (China) said that it was for the regional groups to nominate their own candidates, but it must be understood that the elected officers would represent and serve the whole Conference. He agreed that there was no such principle as regional sovereignty and urged the regional groups to submit their lists of candidates as soon as possible.
4. The United Nations Charter had been drawn up after the Second World War and reflected the historical reality of that time. Article 2 of the Charter stated that the Organization was based on the principle of the sovereign equality of all its Members; there was no reason why that principle should not apply to the Conference. Some speakers had referred to the precedents of previous international conferences, but it must be remembered that the world situation was changing, and the Conference should reflect that change. Many previous conferences had been convened under the control of imperialism rather than under the banner of socialism. The fact that the Conference was the third to be held on the law of the sea demonstrated the fact that the existing law of the sea did not satisfy world realities or the requirements of the majority of countries, especially developing countries and small and medium-sized countries.
5. He hoped that the Conference would adopt the principle of single representation, as he had proposed at the previous meeting. He shared the view that the Conference should move on as quickly as possible to consideration of the rules of procedure. If the Conference was to be successful, it must not grant any privileges to the big Powers. Since there were differences of opinion concerning his delegation's proposal, he endorsed the view that a vote should be taken on it.
6. Mr. MIGLIUOLO (Italy) said that the statement which he had made at the 3rd meeting seemed to have been misunderstood. He had said that some regional groups were disposed to accept the request of one country that it should be allocated two seats. They had preferred not to name the country but to allow it to obtain two seats by means of an accommodation in the Western European group. He had said that it was a problem for the whole Conference and his view had been reflected in the solution ultimately reached. He had not touched on the substance of the question of single or dual representation. That was a very important issue and, as was evident from the debate, a political one. However, dual representation should not be confused with the submission of more than one candidate. States could propose their candidature for more than one office, and reserve the right, if they so wished, to accept only one.
7. Mr. ZULETA TORRES (Colombia) said that the matters under discussion, which were not directly related to the law of the sea, should not be allowed to paralyse the Conference. It was true that some groups had decided to apply the principle of single representation for their own purposes, but that did not amount to making the principle an unwritten rule of the Conference. The practice of granting privileges to certain permanent members of the Security Council should not apply to the Conference. At the San Francisco Conference his country, together with Chile, Mexico and Cuba, had opposed the establishment of permanent members of the Security Council. The Conference should stop wasting its time discussing a non-existent principle and move on to the rules of procedure. If one group could not agree on the distribution of seats in the General Committee, the Conference should implement the gentleman's agreement (see A/CONF.62/2), which did allow for a decision to be taken by voting when all efforts to reach a consensus had failed. Such efforts seemed to have failed in the case of one group. The Conference should apply the relevant rules of procedure of the General Assembly as a means of breaking the deadlock.
8. Mr. HADDAD (Lebanon), speaking as Chairman of the Asian group, said that he wished to make it clear that there was a strong tendency in the group towards adopting the position of principle that the Conference should reaffirm the equality of all States by endorsing the application of the principle of single representation without exceptions.
9. Mr. ENGO (Cameroon) pointed out that the African group had not adopted a position of principle on the question of representation, as the representative of Spain had implied. The problem facing the Conference was being exaggerated and complicated by the introduction of technicalities. The problem was simply that one or two groups were unable to agree on their candidates. China's position had been misconstrued: there was a difference between a legal principle and an advisable principle; China was arguing that dual representation was inadvisable.
10. All States represented at the Conference were sovereign and there was no question of that sovereignty being threatened. The question of group sovereignty was academic. The regional groups were merely a convenient classification and in no way restricted the sovereignty of individual States. The countries of the African group were able to take united decisions because they shared a common philosophy and common objectives; nevertheless, each country in the group remained sovereign.

11. The task facing the Conference was to elect its officers. It had already agreed on the allocation of seats to the regional groups on the basis of equitable geographical distribution. The groups should now submit their list of candidates for election by the Conference. His delegation would vote for a list of candidates agreed on by a given group. If a group could not reach agreement, his delegation would vote for individuals. The Conference should set a deadline for the nomination of candidates.

12. Mr. MEDJAD (Algeria) said that all States represented at the Conference were sovereign and therefore his delegation supported the principle of single representation. Only if there were more seats than candidates could one State obtain more than one seat, but even in such a situation all States would have to receive equal treatment in the distribution of the extra seats. It would be a dangerous precedent to establish the principle of dual representation. As the representative of Cameroon had said, the regional groups were a means of facilitating equitable representation, but the use of the regional system did not impart sovereignty to the groups.

13. The gentleman's agreement was designed as a method of achieving consensus but it should not be allowed to paralyse the work of the Conference. The problems faced by certain groups would be solved if the Conference decided to vote. The rules of procedure of the General Assembly should not necessarily apply to the Conference, which could decide to proceed as it wished.

14. Mr. DIAZ GONZALEZ (Venezuela) said that the formula used at the San Francisco Conference was not acceptable today. The current Conference, far from disregarding the rules of democracy, should defend them—as most delegations were prepared to do. The only solution to the problem facing the Conference was for all States to exercise their inalienable right to legal equality. The principle established at San Francisco that some States were more equal than others should be rejected. His delegation would prefer to avoid the confrontation which a vote might entail but, since consensus, let alone unanimity, seemed impossible, the Conference should stop wasting its time in a sterile debate and should take a vote according to democratic principles.

15. Mr. WARIOBA (United Republic of Tanzania) said that his delegation, on the basis of its recognition of the sovereign equality of States, had throughout the consultations in the African group rejected the idea that a permanent member of the Security Council should enjoy automatic membership of any organ of the Conference, and had agreed that no State should be represented on more than one organ of the Conference. During its discussions, the African group had received an appeal from other groups, urging it to agree on a list of candidates and thus avoid the need to vote on the candidates; he had been struck by the fact that the very groups which had appealed to his group for a spirit of conciliation were now raising problems which were impeding progress in the Conference's work. The issue was not one of sovereignty or of equality, but one of achieving agreement within the regional groups.

16. Several of the regional groups had agreed on a list of candidates for the posts for which elections would be held. Consequently, his delegation felt that the Conference should resolve the problem by proceeding to a vote on all candidatures proposed and then, as he had proposed at the previous meeting, move to another agenda item. If the Conference did not proceed to vote, his delegation would reiterate its earlier proposal that the debate on elections should be suspended and that the question of the rules of procedure should be taken up.

17. Mr. RATTRAY (Jamaica) observed that the debate had turned to discussion of whether the Conference should endorse the principle of double representation. While the over-all issue involving the principle of equitable geographical distribution had been settled, no solution had yet been found to the problem of distributing posts within individual regional groups. His

delegation felt that the fundamental principle laid down in the Conference's draft rules of procedure and the rules of procedure of the General Assembly that one State could not have more than one vote should be respected at all costs. If that was done, he believed that agreement could soon be reached within all the regional groups.

18. Mr. OGISO (Japan) recalled that the President had stated, at the end of the previous meeting, that the rules of procedure of the General Assembly would automatically apply until the Conference had adopted its own rules of procedure. He wished to make clear that, since the Conference was totally independent of the General Assembly, and that since no understanding had been reached as to the provisional application of the rules of procedure of the General Assembly, such a procedure would be acceptable only if the Conference as a whole agreed to the President's proposal. That proposal had been introduced in some haste, and his delegation had not been able to set out its views on the matter.

19. His delegation wished to make it clear that the rules of procedure of the General Assembly should be applicable within the Conference only to the extent that, and in cases where, the Conference agreed to that procedure on a case-by-case basis.

20. The PRESIDENT noted that his proposal had concerned the provisional application of the General Assembly's rules of procedure only for the purpose of the elections. However, he intended to make a further proposal to the Conference later in the meeting.

21. Mr. DRISS (Tunisia) said that, while his delegation would have no objection if the Conference proceeded to elect its officers, he wished to make a proposal which he hoped would make it possible to overcome present difficulties. Several regional groups had already agreed on a list of candidates, and consequently his delegation felt that the Conference should agree to elect the candidates from those regional groups. The remaining regional groups could, of course, continue their consultations. While they were being held, the Conference could proceed to a discussion of its rules of procedure, since it was unthinkable that the current week should end without the adoption of working principles for the Conference.

22. Mr. JEANNEL (France) associated his delegation with the views expressed by the representative of Japan. The haste with which the President's proposal had been introduced should in future be avoided at all costs.

23. Mr. NJENGA (Kenya) observed that the Conference was entitled, before it adopted its own rules of procedure, to adopt such rules of procedure as would enable it to pursue its work. At the same time, the Conference had been holding a debate, and had been doing so on the basis of rules which the President had been applying and to which no one had objected. In order to clarify matters, his delegation felt that the President should propose the provisional application of the rules of procedure of the General Assembly until the Conference had adopted its own rules of procedure. If the President did not take that step, his delegation intended to make a formal proposal to that effect.

24. Mr. ZEGERS (Chile) said that the way in which the work of the Conference had been conducted so far demonstrated that it had tacitly accepted the provisional application of the rules of procedure of the General Assembly. The Conference had heard a specific proposal for a vote on its officers and structure, and he urged that that voting should take place either at the present meeting or at the following meeting.

25. Mr. BAKULA (Peru) agreed that the rules of procedure of the General Assembly were being applied tacitly and that no objections had been made to that procedure. While previous speakers had referred to the consensus rule, it was obvious from the discussion that no decisions could be reached by consensus and that voting was the only solution. He therefore requested the President to terminate the present debate, which was serving no purpose, and proceed to a vote.

26. Sir Roger JACKLING (United Kingdom) said that his delegation continued to believe that the proposal made by the representative of the United Republic of Tanzania was to be preferred to other proposals which had been submitted. Indeed, if the Conference had adopted that proposal earlier and begun to consider its rules of procedure, it might have been possible to make further progress and to allow the regional groups which were still undecided to achieve final agreement on their candidates. Since that agreement was very close, he urged the Conference to end the debate and adopt the Tanzanian proposal.
27. His delegation fully agreed with the representative of France concerning the President's proposal. In addition, it had been asserted that the gentleman's agreement did not apply since the matter under discussion was not a procedural one and since the consensus approach had clearly failed. However, it was obvious from the discussion that the issue was more than a procedural one, and he urged the Conference to recognize that the gentleman's agreement should still be honoured. The Conference should not take a decision which might prejudice the future of the Conference; members should do their utmost to proceed with the question of rules of procedure and to make progress with the lists of candidates.
28. The PRESIDENT said that there seemed to be a serious misunderstanding concerning the gentleman's agreement, which should be read only in conjunction with the draft rules of procedure. In addition, he intended to propose that, in order to allow at least one regional group to reach a final decision as to its list of candidates, the Conference should hold the elections not at the present meeting, but during the afternoon of the following day.
29. Miss FLOURET (Argentina) stressed that, if the Conference was to find a way out of the impasse, it would have to take a decision concerning the rules of procedure that would apply. Some members held the view that the rules of procedure of the General Assembly applied on a provisional basis: that was also her delegation's view, since it was inconceivable that the Conference could operate without any rules at all. Some members felt that the General Assembly's rules of procedure should be adopted by the Conference, and she supported that view. Other members believed that the Conference was working on a basis of consensus; however, if work proceeded on that basis, the Conference would remain in the present impasse. A formal decision must be taken at the present meeting as to which rules of procedure applied to the work of the Conference, and she felt that the Kenyan proposal should be adopted.
30. Mr. DRISS (Tunisia) reiterated his proposal that a decision should be taken immediately on the election of the Vice-Presidents from regional groups which had finally decided on their list of candidates, and also on the chairmanships of the three Main Committees. If the Conference proceeded in that manner, it would have Vice-Presidents available to assist the President and Committee Chairmen who could begin their contacts. Consultations concerning the Vice-Presidents to represent the group of Western European and other States and on the composition of the Drafting Committee should continue until a consensus had been reached, or at least until it had been decided that elections should be held. Meanwhile, the Conference should proceed immediately to consider its draft rules of procedure.
31. Mr. DIAZ GONZALEZ (Venezuela) sought clarification of the present situation. By virtue of which rule had the Secretary-General opened the Conference and supervised the election of the President? His delegation had been under the impression that the Conference had begun under the provisions of rule 45 of the rules of procedure of the General Assembly. Expressing support for the statement made by the representative of Argentina, he wondered how, in the absence of any provisional rules of procedure, the Conference could discuss and adopt its own rules of procedure.
32. The PRESIDENT said that he doubted the propriety of the Tunisian proposal that the Conference should deal with the election of officers piecemeal.
33. Mr. WAPENYI (Uganda) said that, during consultations organized by the President, he had gained the impression—which had been confirmed by the Special Representative of the Secretary-General—that, from the beginning, the Conference had been operating under the rules of procedure of the General Assembly. That understanding had been agreed to by the chairmen of all the regional groups, and it was unacceptable that any representative should now seek to question that understanding. His delegation believed that the President should make a ruling on the matter, so that the Conference could proceed with its work.
34. The PRESIDENT reread the statement he had made at the second meeting concerning the procedure to be followed.
35. Mr. TARCICI (Yemen) proposed that the Conference should begin forthwith to consider its rules of procedure, in the hope that they would be adopted by the end of the afternoon meeting on Thursday, 13 December, and should hold the elections of officers on the morning of Friday, 14 December, on the understanding that the rules of procedure of the General Assembly would apply to those elections if the Conference had been unable to adopt its own rules. That course would give the groups which had not reached a consensus more time for reflection and negotiation.
36. The PRESIDENT appealed to the representative of Yemen not to press his proposal. He himself intended to propose that the elections should be held in the afternoon of Wednesday, 12 December, under the applicable rules of procedure of the General Assembly.
37. Mr. OGISO (Japan) said that his earlier statement seemed to have been misunderstood by certain delegations. His delegation was not entirely opposed to the use of the rules of procedure of the General Assembly, but considered that those rules should be applicable only to the extent to which the Conference agreed to apply them. It therefore had no objection to the application of the Assembly rules to the elections that would be held the following afternoon.
38. Mr. KOLESNIK (Union of Soviet Socialist Republics) said that his delegation regarded the question of the rules under which the Conference had so far been operating as a question of principle. It could not agree with representatives who alleged that there had been a tacit agreement from the outset to apply the rules of procedure of the General Assembly; on the contrary, it believed that the Conference had been operating in accordance with the gentleman's agreement worked out in the First Committee and approved by the General Assembly. That belief was confirmed by the fact that the President had been elected unanimously and by the strenuous efforts to reach a consensus on the elections. Certain representatives had rightly stated that the Conference could use the Assembly rules of procedure, but only to the extent to which all participants agreed to apply them; the debate had clearly shown that there was no agreement on the full applicability of those rules, and his delegation objected to attempts to draw the Conference into tacit acceptance of such applicability.
39. His delegation could support the procedural proposals made by the representatives of the United Republic of Tanzania and Yemen, to the effect that the Conference should at once begin to consider its rules of procedure, since the adoption of some of those rules might facilitate the settlement of other issues.
40. The PRESIDENT observed that the gentleman's agreement was being misinterpreted by some delegations. In stating that the Conference should make every effort to reach agreement on substantive matters by way of consensus, the General Assembly had never intended that all questions considered by the Conference should be regarded as substantive; such an

interpretation of the agreement could only paralyse the Conference.

41. Mr. JEANNEL (France) said that the Chilean representative's contention that the Conference was in fact applying the rules of procedure of the General Assembly could not be denied, since those rules reflected procedures which had been followed in international conferences for over a century and would always be applied provisionally by conferences before they adopted their own rules. Nevertheless, it could not be said that because certain rules were being applied they became the rules of the Conference and were binding on the participants. As the United Kingdom representative had rightly pointed out, the Assembly rules were being applied by consensus, and if there was any objection to the application of any rule, it would not be applied.

42. The Bolivian representative's statement that regional groups operated on the basis of consensus was in fact correct, since it was not customary for votes to be taken in the groups, although there was no rule for the procedure. Yet some delegations were now arguing that if all the groups except one succeeded in reaching a consensus, the Conference should proceed to a vote. That meant that the majority of the groups could impose its will on the minority. In his delegation's opinion, the very purpose of the gentleman's agreement was to prevent such situations from arising. It was being argued that the elections were a procedural rather than a substantive matter and that the agreement did not apply to them; but every one must be aware that the question was in fact fundamentally important and substantive in the context of the Conference. A gentleman's agreement was an agreement between people that the relations between them should be based on other than strict and absolute rules, so that issues could be discussed openly in conference rooms rather than in lobbies. Delegations should therefore reflect seriously before embarking upon a perilous course: it would be most regrettable for the future of the Conference if certain delegations were to try from the outset to impose their views on others in organizational matters.

43. Where the distribution of posts among regional groups was concerned, the main principle followed was clearly that of equitable geographical representation, but although that principle applied to four of the groups, it made no sense in the case of the Western European and other States group, which was composed of countries situated in all parts of the world. In addition, there was the problem of the United States of America, which had never belonged to any regional group.

44. The PRESIDENT appealed to representatives to confine their remarks to the procedural issue before the Conference.

45. Mr. DRISS (Tunisia) said that, although his delegation could agree that the rules of procedure of the General Assembly should be applied to the elections, it considered that the Conference should try to adopt its own rules as soon as possible. Moreover, although he would not press his proposal, he considered that the Conference should elect some Vice-Presidents before too long, so that its deliberations could proceed in the normal manner.

46. Mr. BEESLEY (Canada) said that his delegation was alarmed by the trend of the debate, which augured ill for the future of the Conference. Closer attention should be paid to what had already been decided and to the real mandate of the Conference. The Canadian delegation considered that the purpose of the gentleman's agreement was to protect the Conference from the tyranny of the majority and from the veto of a few. No one could deny that the Conference was, in pursuance of the gentleman's agreement, making every effort to reach agreement on substantive matters by way of a consensus; no sterile debates about the General Assembly rules, tacit agreements or consensus by tacit agreement could mask the fact that the question of candidacies for the elections was a substantive matter. The gentleman's agreement then provided that there should be no voting on such matters until all efforts at con-

sensus had been exhausted, thus implying that at some unspecified point, when a deadlock had been reached, voting could take place. Finally, the General Assembly had expressed the view that the Conference at its inaugural session should consider devising appropriate means to that end; since the Conference had not yet devised such means, delegations must be careful about basing their positions on the gentleman's agreement, which had very little relevance to the subject under discussion. Canada could agree to the procedure suggested by the President, but was categorically opposed to the unprecedented suggestion that there should be an understanding excluding the possibility of a vote on two competing candidacies.

47. Care must also be taken in characterizing the positions of the regional groups. Thus, the Chairman of the group of Western European and other States was still unable to announce a group decision on candidacies. Attempts at conciliation in the group were of course praiseworthy, but time was running out, and a cut-off point must be decided on if the Conference was to have time to consider its rules of procedure. His delegation therefore welcomed the President's procedural suggestion. Although it sympathized with the position of the United Kingdom, USSR and French delegations, it believed that if a consensus was not reached by a specified time on the following day, it could be concluded that all efforts at consensus had been exhausted.

48. The PRESIDENT proposed that the rules of procedure of the General Assembly should be adopted for the purposes of the elections only.

49. Miss FLOURET (Argentina) asked what rules of procedure would be applicable to the discussion of the Conference's own rules after the elections had been held.

50. The PRESIDENT said that he would make an appropriate proposal when the time came.

51. Mr. YTURRIAGA BARBERAN (Spain) said that, although there seemed to be no objection to following the Assembly rules on a provisional basis, rules 38 and 105 could not be applied to the Conference, which had already decided that the General Committee should include the officers of the Main Committees. In the light of rule 105, a separate vote would have to be taken to elect those officers.

52. The PRESIDENT said that that specific procedure could be adopted if there were any difficulties.

53. Mr. ZEGERS (Chile) reiterated his view that the Assembly rules were applicable until the Conference had adopted its own rules of procedure. A purely practical problem had to be solved; there was no question of certain groups imposing their will on others and, indeed, several delegations of the Western European and other States group had agreed that the outstanding issue should be settled by voting. Chile therefore welcomed the President's suggestion that the elections should be held the following day.

54. Mr. STAVROPOULOS (Special Representative of the Secretary-General) said that all past international conferences had applied the rules of procedure of the General Assembly pending the adoption of their own rules, usually as the fourth item of their agenda. Rule 163 of the rules of procedure concerning subsidiary organs of the General Assembly indicated the particular rules which could be used as guidelines; those rules could be divided into two categories, those relating to conduct of general business and those relating to voting. A number of the Assembly rules were obviously not applicable to the Conference, and the President had made it clear that the Conference would be governed only by the applicable rules. He could not remember any case where difficulties had arisen in connexion with the adoption of the rules of procedure. The question, though important, was procedural, not substantive, and did not necessarily call for a consensus.

55. The PRESIDENT proposed that the rules of procedure of the General Assembly, in so far as they were applicable to

the Conference, should be applied in the election of officers.

*It was so decided.*

56. Miss FLOURET (Argentina) asked whether the decision just taken precluded the application of the Assembly rules to

the remainder of the Conference's work, pending the adoption of its own rules.

57. The PRESIDENT said that the decision did not preclude such application.

*The meeting rose at 6.50 p.m.*

## 6th meeting

Wednesday, 12 December 1973, at 12.35 p.m.

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

### Results of informal consultations

1. The PRESIDENT, noting that the debate on the previous day had dealt mainly with the proposed principle of "one State, one seat", said that he had held consultations with a view to devising a formula which would make it possible to avoid a vote on that question, while preserving the position of principle of some members and helping the Conference to proceed in a smooth and orderly manner and in a spirit of understanding and goodwill. He commended the following formula to the Conference: "No State shall as a right be represented on more than one main organ of the Conference." He trusted that that formula would be acceptable to the Conference. If he heard no objection, he would take it that the Conference accepted that formula.

*It was so decided.*

### Adoption of the rules of procedure (A/CONF.62/2 and Add.1)

2. Mr. KOLESNIK (Union of Soviet Socialist Republics) reserved his delegation's right to speak at a later stage on the formula the President had read out. His delegation had not been invited to participate in the consultations which, according to the President, had resulted in the formula.

3. The opening of the organizational session of the Conference marked an important stage in the work on problems relating to the law of the sea. As the Secretary-General had rightly observed in his opening statement the Conference must reconcile the vital interests of an immense number of States if it was to produce a generally accepted and practicable legal order of the seas and oceans. No group of States should be allowed to impose its views on others by means of an arithmetical majority. Any decisions the Conference might adopt should not impair the legitimate interests of any group of States. The interests of all groups of States must be taken into account, both those which currently played a leading role in the exploitation of marine resources and those which were only beginning such exploitation.

4. The world ocean was playing an increasing role in the life of States. The Soviet Union, as a maritime Power, had a substantial interest in the rational utilization of the wealth and possibilities of the sea.

5. Organizational matters were closely related to matters of substance; the successful conduct of the Conference would depend in large measure on how questions of organization and procedure were settled. If the new rules to be worked out by the Conference were to be viable and effective, and observed, they must be supported by all groups of States and take into account the interests of all. That was why the Conference should be of a universal character. Although it was broadly representative, the Conference had unfortunately failed to achieve complete universality. The Republic of South Viet-Nam had not been invited to participate, and because of that discriminatory decision the Democratic Republic of Viet-Nam had declined to

participate, giving its reasons in a cable from its Minister of Foreign Affairs addressed to the Secretary-General.<sup>1</sup> His delegation fully shared the views expressed by the Government of the Democratic Republic of Viet-Nam and considered that the Republic of South Viet-Nam was fully entitled to participate in the Third United Nations Conference on the Law of the Sea.

6. The problems which the Conference was called upon to resolve were unprecedentedly broad in scope, affecting the vital interests of States from all regions of the world in the political, defence, economic and other spheres. Accordingly, the rules of procedure were of particular importance and, if unsatisfactory, might adversely affect the success of the Conference. The rules of procedure should contain clear and unambiguous provisions regarding the procedure for the adoption of decisions by the Conference. In accordance with the gentleman's agreement approved by the General Assembly at its current session (see A/CONF.62/2), decisions on substantive matters should be taken by way of consensus. Voting should be resorted to only in exceptional circumstances when all efforts at consensus had been exhausted, as the gentleman's agreement stipulated. Accordingly, his delegation proposed that rule 39, paragraph 1 of the draft rules of procedure (*ibid.*) should be amended as follows:

"1. Decisions of the Conference on all matters of substance shall, as a rule, be taken by consensus. A vote shall be taken only in exceptional cases when all efforts at consensus have been exhausted and only after the General Committee has made a recommendation that the method of voting is to be applied.

"2. In the event that a vote is taken, the majority required for the adoption of a decision on matters of substance shall be as close as possible to a consensus."

7. Turning to the functions of the General Committee, he proposed the following amendment to rule 15:

"The General Committee shall, if necessary, determine when all efforts at consensus on matters of substance have been exhausted in the Main Committees and shall make recommendations concerning the application of the method of voting for the adoption of a decision. Such a recommendation shall be deemed to be adopted if there are no objections to it from a majority of the members of any geographical group represented in the General Committee."

8. The two amendments his delegation had proposed might necessitate some minor drafting changes in other provisions of the rules of procedure.

9. His delegation attached great importance to the rules of procedure; the extent to which the gentleman's agreement was reflected in them would determine its attitude to the future stages of the Conference's work.

10. In conclusion, he stated his delegation's willingness to do its utmost to solve the problems facing the organizational ses-

<sup>1</sup> See document A/9350 of 27 November 1973.