

Third United Nations Conference on the Law of the Sea

1973-1982

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Summary Records of Plenary Meetings 7th plenary meeting

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sion of the Conference in a spirit of full respect for the interests of all States and all groups of States.

11. Mr. YTURRIAGA BARBERAN (Spain) requested clarification as to how the Conference was to proceed with its discussion of the draft rules of procedure. He wondered whether concrete proposals were to be discussed at the present time or whether they were to be first examined by the regional groups. His delegation had proposals to make and wished to know the correct procedure before putting them forward.

12. The PRESIDENT said that, in view of the shortage of time, the Conference should avoid a general debate on the rules of procedure. He asked those delegations which had concrete proposals to make to submit them directly to the Secretariat and to speak on them. The Conference might take each rule in turn and see what objections or observations it gave rise to. That would perhaps be the most orderly and business-like way of proceeding.

13. Mr. ZEGERS (Chile) suggested that the debate should be concentrated on the fundamental question of the rules concerning voting and their relation to the gentleman's agreement adopted by the General Assembly and to the general rules observed by international conferences. Some of the rules contained in the draft rules of procedure were of long standing and had been applied in the case of many international conferences; they should therefore not give rise to controversy. He formally proposed that the Conference should proceed to a debate on its rules of procedure, concentrating on the question of voting.

14. Mr. ZULETA TORRES (Colombia) said that he fully supported the Chilean proposal. He requested the Special Representative of the Secretary-General to put before the Conference those technical rules which had already been agreed

upon by consensus and the rules relating to the election of the General Committee. That would obviate the need for further debate on those questions.

15. The PRESIDENT said that the composition of the General Committee was already known. He asked whether there was any objection to the Chilean proposal to concentrate the debate on those draft rules of procedure which related to decision-making, namely, draft rules 38 to 49, 54 and 55.

16. Mr. ZEGERS (Chile) said that, in his view, draft rules 34 and 37 were also relevant in that connexion.

17. Mr. ZULETA TORRES (Colombia) pointed out that draft rule 28 was also related to the decision-making rules referred to.

18. The PRESIDENT said that, if he heard no objection, he would take it that the Conference agreed to concentrate in its debate on the draft rules of procedure on all those rules which related to the decision-making process.

It was so decided.

19. Mr. STAVROPOULOS (Special Representative of the Secretary-General), replying to the question put by the Colombian representative, said that the Conference had reached an agreement on the numerical composition of the Drafting Committee and the General Committee. He drew attention to paragraph 4 of document A/CONF.62/2, which indicated clearly that special procedures had been included in the draft rules of procedure to assist the Conference in devising appropriate means to implement the gentleman's agreement set forth at the end of that document. All the other provisions of the draft rules of procedure were classic and common to all international conferences.

The meeting rose at 1.10 p.m.

7th meeting

Wednesday, 12 December 1973, at 4.40 p.m.

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

Election of officers

1. The PRESIDENT suggested that the officers should be elected in the following order: The Chairmen of the three Main Committees; the Chairman of the Drafting Committee; the Rapporteur-General; the Vice-Chairmen and Rapporteurs of the three Main Committees; the 31 Vice-Presidents of the Conference.

2. Mr. ZOTIADES (Greece) suggested that, in accordance with the procedure followed by several international bodies, the Conference should first elect its Vice-Presidents, then the Chairmen of the Main Committees, the Rapporteur-General and the Vice-Chairmen of the Main Committees.

3. The PRESIDENT said that the order he had suggested was consistent with normal United Nations practice. Furthermore, the agenda provided for the elections to be held in that order; the only innovation was the election of the Rapporteur-General.

4. Mr. ZOTIADES (Greece) said that in a spirit of accommodation he would not press his suggestion, but he thought that there was nothing in the rules of procedure to say that the election of the Chairmen of the Main Committees should precede the election of the Vice-Presidents of the Conference.

5. The PRESIDENT said that if there was no other objection, he would take it that the Conference accepted the order he had suggested.

It was so decided.

6. The PRESIDENT suggested that, in view of the number and complexity of the elections, the Conference should dispense with formal nominations. In many cases there would be no need to vote because the Conference had already agreed that when the number of nominations put forward by a regional group equalled the number of seats allocated to it, the election would be by acclamation.

7. Mr. BAKULA (Peru) said that in the view of his delegation the Conference should observe the principle of one State, one seat.

8. The PRESIDENT said that the delegation of Peru could cast its vote or make any reservations as it wished.

9. If there was no objection, he would take it that the Conference accepted the procedure he had outlined.

It was so decided.

10. Mr. JEANNEL (France) said that his delegation had noted the wide feeling in the Conference in favour of single candidacies. Accordingly, if the French nominee was elected to one of the vice-presidencies, his delegation would withdraw its candidacy to the Drafting Committee.

11. Sir Roger JACKLING (United Kingdom) said that his delegation took the same position as the French delegation.

Election of the Chairmen of the Main Committees

12. The PRESIDENT said that the chairmanship of the First

Committee had been allocated to the African group; the only nominee was Mr. Engo (Cameroon).

Mr. P. B. Engo (Cameroon) was elected Chairman of the First Committee by acclamation.

13. The PRESIDENT said that the chairmanship of the Second Committee had been allocated to the Latin American group; the only nominee was Mr. Aguilar (Venezuela).

Mr. A. Aguilar (Venezuela) was elected Chairman of the Second Committee by acclamation.

14. The PRESIDENT said that the chairmanship of the Third Committee had been allocated to the Eastern European group; the only nominee was Mr. Yankov (Bulgaria).

Mr. A. Yankov (Bulgaria) was elected Chairman of the Third Committee by acclamation.

Election of the Chairman of the Drafting Committee

15. The PRESIDENT said that the chairmanship of the Drafting Committee had been allocated to the group of Western European and other States; the nominees were Mr. Beesley (Canada) and Mr. Harry (Australia).

At the invitation of the President, Mr. Ouangmetching (Chad) and Mr. Giambruno (Uruguay) acted as tellers.

A vote was taken by secret ballot.

<i>Number of ballot papers:</i>	136
<i>Invalid ballots:</i>	0
<i>Number of valid ballots:</i>	136
<i>Abstentions:</i>	1
<i>Number of members voting:</i>	135
<i>Required majority:</i>	68
<i>Number of votes obtained:</i>	
Mr. Beesley (Canada)	81
Mr. Harry (Australia)	54

Having obtained the required majority, Mr. J. A. Beesley (Canada) was elected Chairman of the Drafting Committee.

Election of the Rapporteur-General

16. The PRESIDENT said that the office of Rapporteur-General had been allocated to the Latin American group; the only nominee was Mr. Rattray (Jamaica).

Mr. K. O. Rattray (Jamaica) was elected Rapporteur-General by acclamation.

Election of the Vice-Chairmen and Rapporteurs of the three Main Committees

17. The PRESIDENT said that the nominees to the three vice-chairmanships of the First Committee were Brazil, the German Democratic Republic and Japan.

Brazil, the German Democratic Republic and Japan were elected Vice-Chairmen of the First Committee by acclamation.

18. The PRESIDENT said that there were two nominations to the office of Rapporteur of the First Committee: Mr. La-pointe (Canada) and Mr. Mott (Australia).

19. Mr. LAPOINTE (Canada) withdrew his candidacy.

Mr. H. C. Mott (Australia) was elected Rapporteur of the First Committee by acclamation.

20. The PRESIDENT said that the nominees to the three vice-chairmanships of the Second Committee were Czechoslovakia, Kenya and Turkey.

Czechoslovakia, Kenya and Turkey were elected Vice-Chairmen of the Second Committee by acclamation.

21. The PRESIDENT said that Mr. Nandan (Fiji) had been nominated to the office of Rapporteur of the Second Committee.

Mr. S. N. Nandan (Fiji) was elected Rapporteur of the Second Committee by acclamation.

22. The PRESIDENT said that the nominees to the three vice-chairmanships of the Third Committee were Colombia, Cyprus and the Federal Republic of Germany.

Colombia, Cyprus and the Federal Republic of Germany were elected Vice-Chairmen of the Third Committee by acclamation.

23. The PRESIDENT said that Mr. Hassan (Sudan) had been nominated to the office of Rapporteur of the Third Committee.

Mr. A. M. A. Hassan (Sudan) was elected Rapporteur of the Third Committee by acclamation.

Election of Vice-Presidents

24. The PRESIDENT invited the Conference to proceed to the election of 31 Vice-Presidents. In accordance with a Conference decision, the group of African States had been allocated nine vice-presidencies. The group had submitted the following nine nominations: Algeria, Egypt, Liberia, Madagascar, Nigeria, Tunisia, Uganda, Zaire and Zambia.

Algeria, Egypt, Liberia, Madagascar, Nigeria, Tunisia, Uganda, Zaire and Zambia were elected Vice-Presidents by acclamation.

25. The PRESIDENT recalled that the group of Asian States had been allocated eight vice-presidencies. The group had submitted the following eight nominations: China, Indonesia, Iran, Iraq, Kuwait, Nepal, Pakistan and Singapore.

China, Indonesia, Iran, Iraq, Kuwait, Nepal, Pakistan and Singapore were elected Vice-Presidents by acclamation.

26. The PRESIDENT recalled that the group of Eastern European States had been allocated three vice-presidencies. The group had submitted the following three nominations: Poland, the Union of Soviet Socialist Republics and Yugoslavia.

Poland, the Union of Soviet Socialist Republics and Yugoslavia were elected Vice-Presidents by acclamation.

27. The PRESIDENT recalled that the group of Latin American States had been allocated five vice-presidencies. The group had submitted the following five nominations: Bolivia, Chile, Dominican Republic, Peru, Trinidad and Tobago.

Bolivia, Chile, Dominican Republic, Peru and Trinidad and Tobago were elected Vice-Presidents by acclamation.

28. The PRESIDENT, referring to the vice-presidencies allocated to the group of Western European and other States, recalled the understanding of the four other regional groups that any candidature of the United States of America would be accommodated within the quota allocated to the group of Western European and other States.

29. Mr. KNOKE (Federal Republic of Germany), speaking as Chairman of the group of Western European and other States, announced that, in order to reduce the number of candidatures from the group, Ireland had undertaken to withdraw its candidature in favour of Belgium, on the understanding that the two delegations would alternate in occupying the post.

30. The PRESIDENT observed that 10 nominations had been received for six posts of Vice-President. Accordingly, he invited the Conference to proceed to a secret ballot.

At the invitation of the President, Mr. Ouangmetching (Chad) and Mr. Giambruno (Uruguay) acted as tellers.

A vote was taken by secret ballot.

<i>Number of ballot papers:</i>	137
<i>Invalid ballots:</i>	0
<i>Number of valid ballots:</i>	137
<i>Abstentions:</i>	0
<i>Number of members voting:</i>	137
<i>Required majority:</i>	69
<i>Number of votes obtained:</i>	
France	109
United States of America	107
Norway	104
Belgium	100
United Kingdom of Great Britain and Northern Ireland	99

Iceland	96
Italy	95
Greece	73
Ireland	2
Austria	1

Having obtained the required majority, Belgium, France, Iceland, Norway, the United Kingdom of Great Britain and Northern Ireland and the United States of America were elected Vice-Presidents.

Appointment of other members of the Drafting Committee

31. Mr. KNOKE (Federal Republic of Germany), speaking in his capacity as Chairman of the group of Western European and other States, requested a suspension of the meeting to allow his group to reach final agreement on its list of candidates for membership of the Drafting Committee.

32. The PRESIDENT said that, if he heard no objection, he would take it that the Conference agreed to accede to that request.

It was so decided.

The meeting was suspended at 6.40 p.m. and resumed at 7 p.m.

33. The PRESIDENT said that six seats on the Drafting Committee had been allocated to the group of African States. That group had submitted the following six nominations: Ghana, Lesotho, Mauritania, Mauritius, Sierra Leone and the United Republic of Tanzania.

Ghana, Lesotho, Mauritania, Mauritius, Sierra Leone and the United Republic of Tanzania were appointed members of the Drafting Committee by acclamation.

34. The PRESIDENT recalled that six seats on the Drafting Committee had been allocated to the group of Asian States.

35. Mr. HADDAD (Lebanon), speaking in his capacity as Chairman of the group of Asian States, informed the Conference that Thailand had withdrawn its candidature in favour of Bangladesh in respect of the year 1974, on the understanding that Bangladesh would be replaced by Thailand for 1975.

36. The PRESIDENT noted that the following six nominations for membership of the Drafting Committee had been received from the group of Asian States: Afghanistan, Bangladesh, India, Malaysia, the Philippines and Syria.

Afghanistan, Bangladesh, India, Malaysia, the Philippines and Syria were appointed members of the Drafting Committee by acclamation.

37. The PRESIDENT recalled that two seats on the Drafting Committee had been allocated to the group of Eastern European States. That group had submitted the following two nominations: Romania and the Union of Soviet Socialist Republics.

Romania and the Union of Soviet Socialist Republics were appointed members of the Drafting Committee by acclamation.

38. Mr. BAKULA (Peru) said that he wished to put on record his delegation's exclusive support for candidates from countries which did not occupy seats on the bureau of the Drafting Committee. That view was based on the principle adopted at the previous meeting that no State could be represented on the bureau of more than one main body of the Conference.

39. Mr. LING Ching (China) said that, on the basis of his delegation's understanding of the principle set out by the President at the previous meeting, it wished to reserve its position in connexion with the fact that the USSR, despite having been elected to the office of Vice-President, had put forward its candidature for membership of the Drafting Committee. Similar actions in respect of the other Committees would also cause his delegation to reserve its position.

40. Mr. KOLESNIK (Union of Soviet Socialist Republics) said that China, France, the USSR, the United Kingdom and

the United States of America, as permanent members of the Security Council, bore primary responsibility for the maintenance of peace and security. That special responsibility carried with it certain rights, which were recognized both in the United Nations Charter and in international practice. Thus, in all international conferences affecting international security, including the codification of international law, the permanent members of the Security Council were given key offices.

41. The PRESIDENT reiterated the principle he had formulated at the 6th meeting, namely that no State should as of right be represented on more than one organ of the Conference.

42. Mr. GRINBERG (Bulgaria), speaking as Chairman of the Eastern European group, said that he had been surprised by the interpretation put on that principle by some speakers, for it was obvious that there could be no intention of preventing any State from holding more than one office if the regional group concerned so wished. A very important understanding had been reached during informal consultations and at the present preparatory session of the Conference itself, namely, that no regional group would impose its views on any other regional group.

43. The PRESIDENT said that four seats had been allocated to the Latin American group; the nominees were Argentina, Ecuador, El Salvador and Mexico.

Argentina, Ecuador, El Salvador and Mexico were appointed members of the Drafting Committee.

44. The PRESIDENT said that five seats had been allocated to the group of Western European and other States. However, since Mr. Beesley (Canada) had already been elected Chairman of the Drafting Committee, four seats remained to be filled. The nominees were Austria, Italy, the Netherlands, Spain and the United States of America.

45. Mr. RIPHAGEN (Netherlands) announced that, if appointed, the Netherlands would fulfil its functions during the Caracas session of the Conference and would then withdraw in favour of Austria in respect of the following session in Vienna.

46. Mr. GLEISSNER (Austria) said that in view of the statement by the Netherlands representative, his country wished to withdraw its candidacy.

Italy, the Netherlands, Spain and the United States of America were appointed members of the Drafting Committee.

47. Mr. ARIAS SCHREIBER (Peru) said that his delegation's comments on the Eastern European group applied also to the Western European group. His delegation supported only those candidates which did not already hold key posts. With regard to the statement by the USSR representative, he said that the Charter did indeed confer special responsibilities on the permanent members of the Security Council in respect of the maintenance of peace and security, but only within the Council and collectively. Nowhere in the Charter was reference made to the special responsibilities of the permanent members of the Council outside that body or individually.

48. Miss FLOURET (Argentina) said that her delegation had agreed to the candidates selected by the regional groups even though in some cases two key offices had been allocated to the same State. However, it could not endorse the view that the privileges which the five great Powers had reserved for themselves in San Francisco should be extended to the current international conference or any others that were convened by the United Nations.

Appointment of the Credentials Committee

49. The PRESIDENT suggested that the following States should be appointed to membership of the Credentials Committee: Austria, China, Greece, Hungary, Japan, Nicaragua, Senegal, United Republic of Tanzania and Uruguay. The pattern of membership was based on that for the Credentials Committee appointed for the twenty-eighth session of the General Assembly, with two changes.

50. After a brief exchange of views in which Mr. WARIOBA (United Republic of Tanzania), Mr. ZELAYA (Nicaragua), Miss FLOURET (Argentina), the PRESIDENT, Mr. OFWONO (Uganda), Mr. LING Ching (China) and Mr. SUGIHARA (Japan) participated, Mr. DJALAL (Indonesia), sup-

ported by Mr. HADDAD (Lebanon), proposed that the meeting should be adjourned to allow time for discussions in the regional groups.

It was so decided.

The meeting rose at 7.30 p.m.

8th meeting

Thursday, 13 December 1973, at 11.05 a.m.

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

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

1. The PRESIDENT observed that the manner in which the Conference was referred to in the *Journal of the United Nations* gave the impression that the Conference was a subsidiary body of the General Assembly. If there was no objection, he would take it that it was the wish of the Conference to request the Secretariat that henceforth the material relating to the Conference should be printed under a separate heading.

It was so decided.

2. Mr. CASTAÑEDA (Mexico) said that his delegation agreed with the remarks made by the USSR representative at the 6th meeting concerning the universal character of the substantive rules to be elaborated by the Conference, the need for those rules to be generally acceptable to all groups of States and the inadmissibility of any attempt by one group of States to impose its views on another group. His delegation could not agree, however, to the specific proposals made by the USSR representative, which would have the effect of giving each group of States the right to frustrate the will of the majority by exercising what amounted to a veto over any decision the Conference might take. Indeed, by using its veto, one group would be able to impose its views on others, a possibility against which the USSR representative had warned. The elaboration of universal rules could come about only through a process of negotiation, which would not be facilitated if a few States were given the power to stand in the way of an agreement by the majority.

3. By placing excessive emphasis on the need for consensus, the USSR representative appeared to be mistakenly equating consensus with unanimity. The pitfalls to which the USSR proposal could lead had been clearly illustrated at the last session of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, where a lengthy discussion had resulted from the insistence of the USSR representative that a point of view expressed by several members of the Committee should not be reflected in the report on the session. Such attempts by a single delegation to impede the will of the majority were counterproductive and constituted an ominous precedent. It was also instructive to consider the position of the Soviet Union on the matter of double representation. In that connexion it had been maintained that the special responsibilities of the permanent members of the Security Council entitled them, even in bodies other than the Council, to privileges not enjoyed by other States. His delegation categorically rejected such a claim and supported the formula read out by the Chairman in that respect at the 6th meeting.

4. The Soviet amendment to rule 15 was also unacceptable. It should not be for the General Committee to decide whether or not a vote should be taken in one of the other committees in the

event that all efforts at consensus had been exhausted. If that proposal was adopted, the Conference might find itself deadlocked, as had the codification conferences around the turn of the century where the unanimity rule had prevailed.

5. Like the Latin American group in general, his delegation had supported the gentleman's agreement approved by the General Assembly (see A/CONF.62/2). Every effort should be made to reach agreement on matters of substance by way of consensus. However, once all efforts at consensus had been exhausted, it would be necessary to settle the matter by voting, a two-thirds majority being required in the plenary and a simple majority in other organs. Any committee of the Conference confronted by the problem of determining whether all efforts at consensus had been exhausted should decide the matter itself; there was no need to refer such problems to the General Committee or to the plenary of the Conference. Voting should be resorted to only after thorough consideration of the problem and not on the spur of the moment. In addition, delegations should be given time to reflect before proceeding to the vote. Accordingly, the Latin American group intended to propose an amendment to the rules of procedure whereby the taking of a vote on matters of substance could be deferred to a subsequent meeting. Moreover, votes on matters of substance should be recorded in all cases, indicative votes being used only in connexion with procedural matters. The full text of the amendments would be circulated shortly.

6. Mr. CRISTESCU (Romania) said that his country attached great importance to the Conference, the purpose of which was to prepare a new legal order of the seas and oceans corresponding to the current requirements of development and international co-operation and aimed at promoting economic and social progress throughout the world, especially in the developing countries. If the Conference was to be effective, its decisions and the texts to be drawn up must correspond to the interests of all States. Matters of substance and major issues must be settled in a democratic way with the participation of all States and in accordance with the principle of the equal rights of all States. There should be no delegation of decision-making power from the plenary of the Conference to other, more limited organs or regional groups. The established practice of the United Nations in that regard should be scrupulously respected. The Conference had been convened not as a conference of regional groups or as one which granted special privileges to certain States, but rather as a Conference of sovereign and independent countries with equal rights. In conclusion, he commended the draft rules of procedure prepared by the Secretariat and expressed confidence that the Conference would be able to reach agreement on a satisfactory final text of those rules.

7. Mr. PERISIĆ (Yugoslavia) said that his delegation attached great importance to the decision-making procedures that were to be adopted by the Conference. It agreed with those who felt that only broadly accepted international legal texts would be valid in the sphere of the law of the sea and that every

*Resumed from the 6th meeting.