

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.9

Summary Records of Plenary Meetings 9th 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)

9th meeting

Thursday, 13 December 1973, at 3.40 p.m.

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

Adoption of the rules of procedure (A/CONF.62/2 and Add.1, A/CONF.62/3—A/CONF.62/11) (*continued*)

1. Mr. HALL (Executive Secretary of the Conference), replying to a question put by the representative of Mexico at the previous meeting concerning international organizations not having consultative status with the Economic and Social Council, said that the requirement of consultative status was stipulated in paragraph 9 of resolution 3029 A (XXVII) and that in paragraph 8 (a) of its resolution 3067 (XXVIII) the General Assembly requested the Secretary-General to invite intergovernmental and non-governmental organizations to the Conference, in accordance with paragraph 9 of the former resolution.

2. Replying to a question put by the representative of Kenya at the previous meeting, he said that rule 63 of the draft rules of procedure (A/CONF.62/2 and Add.1) did not preclude international non-governmental organizations from making statements to the Conference. After consultations with the President and the Committee on Non-Governmental Organizations, the Secretariat had prepared a revised version of the rule which made the point clearer.

3. Mr. STAVROPOULOS (Special Representative of the Secretary-General) read out the revised version of draft rule of procedure 63, which was to be circulated under the symbol A/CONF.62/2/Add.2.

4. Mr. WARIOBA (United Republic of Tanzania), introducing document A/CONF.62/4, said that the delegation of Madagascar had joined his delegation and the delegations of Chile and Colombia as a sponsor of the draft amendments.

5. The drafting and substance of the amendments were still the subject of consultation not only among the sponsors but also in the African, Asian and Latin American groups, which might eventually become the sponsors of the amendments. He had indicated the general reasons for the amendments at the previous meeting but he now wished to be more specific. The amendment to rule 52 defined more clearly the responsibilities of the Drafting Committee and ensured that any substantive decision was taken by a Main Committee or by the Conference in plenary. The responsibilities of the Drafting Committee should be limited to advising on, and refining, texts. It should have no power to initiate substantive texts. The purpose of the proposal to delete rule 55 was to ensure that the Conference as a whole was not excluded from negotiations on conflicting proposals. There was of course no intention to prevent consultations between the sponsors of proposals, but small groups should not have the power to take decisions affecting the whole Conference. The amendment to rule 54 (d) was designed to ensure a clear division of responsibility between the main organs of the Conference. The Main Committees must be masters of their own work, their only responsibility being to report to the Conference in plenary. The purpose of the amendment to rule 28 was to enable the Main Committees to be free to apply simple majorities and thus to speed up their work. The two-thirds majority requirement was retained for the plenary of the Conference. The amendments to rules 36 and 37 were designed to allow a cooling-off period if no agreement could be reached on a particular issue. Further consultations among the sponsors might produce a different majority requirement. The two amendments were in accordance with the gentleman's agreement (see A/CONF.62/2), which should be a means of stimulating efforts to reach agreement but should not prevent speedy decisions. The deletion of rule 36 would not of course deprive

the President of his normal powers or functions with respect to the holding of consultations. The sponsors thought however that it was better to have specific provisions concerning the deferment of votes.

6. The sponsors were still considering amendments to certain other draft rules of procedure.

7. Mr. ZEGERS (Chile) endorsed the comments made by the representative of the United Republic of Tanzania and stressed that the point of view underlying the amendments was shared by all the delegations in the African, Asian and Latin American groups.

8. Miss ROONEY (Holy See), introducing document A/CONF.62/5, said that the addition to rule 52 was designed to overcome any difficulties which might arise when the Drafting Committee had to co-ordinate the wording of proposals in different languages. It might be necessary in such cases for the sponsors of proposals to explain their meaning to the Drafting Committee, but they would have no right to participate in its debate in any other way. The purpose of the addition to rule 63 was to enable the Conference to have the benefit of the advice of experts belonging to organizations which did not have consultative status with the Economic and Social Council. Such experts should be permitted at least to submit written statements to the Conference.

9. Mr. SMIRNOV (Union of Soviet Socialist Republics), introducing document A/CONF.62/6, said that the reasons for his delegation's amendments had been given at the 6th meeting and there was no need for him to repeat them. He believed that other delegations wished to support the amendments.

10. Mr. STEVENSON (United States of America), introducing document A/CONF.62/7, said that his delegation had submitted its amendments because it considered that the Conference must seek the broadest possible agreement. The draft rules of procedure, which did not count abstentions as votes, made it possible for important matters of substance to be adopted by a minority of States. Some speakers had referred to traditional rules of procedure in the matter, but the Conference needed rules to serve its own purpose. In any event, his delegation's amendments were not a great departure from traditional practice: an earlier version of the Vienna Convention on the Law of Treaties did refer to States participating in conferences, not to States present and voting.

11. His delegation supported draft rule 36, concerning indicative voting: it constituted a constructive approach which would facilitate negotiations. His delegation could not understand the argument that the best means of facilitating negotiations was to provide for votes to be taken in the Main Committees at an early stage. Draft rule 45, which had been opposed by some delegations, was a useful device for dealing with the problems which might arise when alternative texts with multiple brackets were submitted to the Conference.

12. The second paragraph of the gentleman's agreement made it clear that the Conference should devise means of implementing the agreement and preventing premature voting. It should seek a middle way between merely approving the gentleman's agreement and adopting precise rules for its implementation. Some people might think that adoption of the draft rules of procedure entailed implementation of the agreement. In the view of his delegation, however, the agreement should continue to have a vital influence on the exercise of the rules of procedure. The best thing would be for the Conference to adopt a resolution on that point. His delegation was consulting

with other delegations and hoped to find a way of reducing the opposition to the draft rules of procedure.

13. The PRESIDENT said that the gentleman's agreement would appear as an appendix to the rules of procedure and would be read in conjunction with them.

14. Mr. YTURRIAGA BARBERAN (Spain) said that the transfer of United Nations rules of procedure to the Conference on the Law of the Sea showed a lack of proper adjustment to the needs of the Conference. Most of his comments, however, were related to drafting points. He drew attention to rule 40 of the draft rules of procedure which he considered to be contradictory. There were two possibilities: either those representatives who abstained from voting would be considered as not voting, or, if they were taken into account, the outcome of the voting would not necessarily depend on the number of affirmative or negative votes cast. The consequences of such an alternative were the following. First, resolutions could be adopted by small minorities if a large number of representatives abstained from voting on them. He had misgivings about such a possibility, because in a legal conference called upon to establish universal rules, it was essential to ensure the widest backing for those rules. Secondly, the text as it stood was inconsistent with draft rule 21 concerning the quorum requirement. Though such a procedure was justified within the framework of the United Nations itself, it could not be appropriately applied within that of the current Conference.

15. Mr. OLSZOWKA (Poland) said that the new law of the sea to be elaborated by the Conference should be universally agreed upon and generally accepted in order to ensure that any new conventions on the law of the sea would be ratified by substantial numbers of the States concerned. Failure to ensure such support could give rise to two different systems of law of the sea, the current system and the new one, each of which would be considered as the only law by important groups of States, the result being virtual chaos which would in the long run serve the interests of no one. The only way to avoid such a situation was to provide in the rules of procedure of the Conference that the decisions of the Conference on questions of substances should be made by means of consensus, and that voting would be resorted to only in exceptional circumstances, when it would be necessary to prevent the abuse of the principle of consensus. That would rule out the possibility of one group of States imposing its will on others, to the detriment of the vital interests of all parties concerned.

16. His delegation therefore supported the amendments to draft rules of procedure 39, 15 and 7 submitted by the delegation of the Soviet Union, the adoption of which was also necessary in view of the gentleman's agreement approved by the General Assembly.

17. Finally, he noted with regret that the Provisional Revolutionary Government of the Republic of South Viet-Nam had not been invited to participate in the Conference, although it had an undeniable right to do so. His delegation urged that no attempt should be made to prevent it from exercising that right.

18. Mr. NJENGA (Kenya), with reference to the amendments contained in document A/CONF.62/4 and introduced by the representative of the United Republic of Tanzania on behalf of the sponsors, endorsed the views which had motivated the developing countries belonging to the Group of 77, and requested the Executive Secretary to add his delegation's name to the list of sponsors of document A/CONF.62/4. The amendments reflected the feeling of most delegations. There was a need to avoid creating a system which made it possible either for a minority to prevent decisions from being taken, or for a majority to impose its will on the minority. That was the motivation underlying the proposal that decisions be taken by a two-thirds majority, a rule followed by previous international conferences, and which he considered to be appropriate for the current Conference. Moreover, to facilitate the achievement of

the broadest possible consensus, draft rule 37, as amended, made provision for a cooling-off period before a vote was taken on any substantive question, a procedure which appeared to be both flexible and reasonable.

19. On the other hand, he did not consider the amendments proposed by the delegation of the Soviet Union to be of an accommodating nature. It was true that every effort should be made to reach consensus on matters of substance, but the aim of the Conference was to avoid situations where the majority was at the mercy of the minority because of the consensus rule. The adoption of such a procedure by the current Conference would be unacceptable to most delegations and would be opposed to the spirit of the gentleman's agreement. The Conference was to create a new equity, and some of those who had enjoyed privileges under the old system would have to relinquish some of those privileges. His delegation therefore had misgivings about the proposed Soviet amendments.

20. With reference to the proposals made by the United States delegation, he said that he saw no reason for changing the voting requirements from a two-thirds majority of States present and voting, to a two-thirds majority of States participating in the Conference. Such a change seemed unfair because it would in fact mean that more than a two-thirds majority might be necessary for decisions on some matters, since it could not be assumed that those not present and voting would vote with the minority.

21. With reference to the amendments proposed by the Holy See, he supported the suggested addition to rule 52, but considered that the proposed amendment to rule 63 might be unnecessary since it would be covered by the revised version of the rule which the Special Representative of the Secretary-General had read out.

22. Finally, he strongly endorsed the texts introduced by the representative of the United Republic of Tanzania, since they emphasized that the plenary of the Conference would be master of its own procedure.

23. Mr. GRINBERG (Bulgaria) said that his delegation shared the view that the Conference on the Law of the Sea was of extreme importance. Its outcome would affect many areas of inter-State relations, including the vital one of international security. One of the keys to a successful Conference was the adoption of such rules of procedure as would ensure that its decision would enjoy general acceptance. While the draft rules of procedure drawn up by the Secretary-General reflected by and large the practices of the United Nations and the major international conferences held thus far, some of its provisions, in particular those pertaining to voting, did not appear to be entirely appropriate, especially in view of the gentleman's agreement. The few innovations contained in the draft rules related to the provision of a limited cooling-off period before voting, and were but palliative measures which in no way guaranteed that all possibilities for a consensus would be exhausted.

24. Draft rule 39 provided that a qualified two-thirds majority would be required for the adoption of substantive proposals, as was the case for the adoption of decisions on important questions in the General Assembly. However, he wondered whether it would be appropriate to follow the same procedure for proposals of such vital importance and binding character as those with which the current Conference would be dealing. That would mean accepting the risk of carrying out work which might not receive the support of many countries, and the results of which would prove ineffective. The gentleman's agreement had said that the problems of ocean space were interrelated and needed to be considered as a whole. That requirement should also be considered a strong argument in favour of following the consensus principle.

25. His delegation therefore considered that the proposed Soviet amendments to the rules of procedure represented a serious attempt at devising methods for carrying out the gentle-

man's agreement, and deserved the most careful consideration. It was also giving due attention to the amendments proposed by other delegations.

26. Finally, he pointed out that on several occasions in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction and in the First Committee of the General Assembly his delegation had stated the view that the current Conference should be open to the participation of all States. It therefore noted with regret that owing to a discriminatory attitude towards the Provisional Revolutionary Government of the Republic of South Viet-Nam no delegation from that country was present at the Conference. That had also made it impossible for another country—the Democratic Republic of Viet-Nam—to participate. He wished to stress once again his delegation's view that the Provisional Revolutionary Government of South Viet-Nam had a legitimate right to participate in all international conferences, including the current Conference.

27. Mr. ENGO (Cameroon) announced that his delegation wished to join the list of sponsors of document A/CONF.62/4. The point at issue was the interpretation of the gentleman's agreement on the voting system. His delegation shared the view that the consensus procedure should be followed in decisions on matters of substance. It should be understood, however, that it might not be possible to achieve a consensus on everything.

28. Repeated reference had been made to the possibility of a minority obstructing the decision-making process, but he was unclear as to what exactly constituted a "minority". The word should not, in any case, be defined in terms of politics, ideology or geographical areas, but rather in terms of communities of interests which cut across all known boundaries, including those between different ideologies, developing and developed countries, Europe and Africa, and the big and small Powers.

29. With reference to the proposed Soviet amendment to rule 15, he found it difficult to understand why the General Committee should assess a matter discussed in a Main Committee when it did not participate in the discussion of that matter. The best forum for assessing it would be the Main Committee concerned. On the whole, however, he endorsed the amendments proposed by the Soviet delegation.

30. Mr. VELLA (Malta), on the subject of the amendment to rule 28 proposed in document A/CONF.62/4, said that the reference to proceedings in the plenary of the Conference made the rule ambiguous. He therefore felt that a new sentence should be added to make the meaning clear.

31. Mr. MATSEIKO (Ukrainian Soviet Socialist Republic) recalled that the goals of the Conference had been set out by the Secretary-General and the President at the Conference's first meeting.

32. Turning to the question of the Conference's rules of procedure, and especially the vital arrangements concerning decision-making, he noted that the way in which the Conference dealt with the rules of procedure would in large measure determine the success of the Conference. Agreement among members was the ideal and only realistic way to ensure that the Conference's decisions were effective and were applied. He deprecated attempts to impose one-sided procedures or voting by a simple majority. His delegation had serious doubts regarding the parallels which had been drawn with the practice of previous conferences entrusted with the task of codifying international law. Such analogies were not relevant to the present Conference, which should represent an important step forward in a complex field. It had been asserted that the sea-bed Committee had failed to make progress because it had worked on the basis of consensus. His delegation disagreed. It had already stated in the First Committee of the General Assembly that the principal shortcoming of the sea-bed Committee had been that it had not found it possible to undertake genuine negotiations. The conclusion to be drawn from that experience was that the

Conference should strive to work on a true basis of consensus, taking into account the views of all interested parties. The gentleman's agreement adopted by the General Assembly stressed the desirability of adopting a convention which would secure the widest possible acceptance. His delegation was convinced that the Conference should not resort to voting by a simple majority or even by a two-thirds majority. First, voting should take place only after all efforts at consensus had been exhausted. Secondly, any vote which was taken should approximate as closely as possible to a consensus. In that connexion, his delegation supported the USSR amendments. The Conference's work so far in establishing the posts of officers and allocating those posts constituted an argument in favour of the approach he was advocating. At that time, a vote had been taken only as a last resort, after other means of arriving at a decision had been exhausted.

33. Some members had expressed a desire for specific machinery which would ensure agreed decisions without excessive haste. Those ideas merited careful consideration, and should be reflected in the Conference's rules of procedure. While some representatives had stressed the need to ensure the independence of the Main Committees, he wished to draw attention to the special responsibility borne by the principal organ of the Conference, the General Committee. In that connexion, rule 17 of the draft rules of procedure should be made more specific, especially as it related to the moment when voting should be resorted to. The fact that the problems of ocean space were closely interrelated, as was stated in the gentleman's agreement, made it necessary to give special responsibility to the General Committee as far as decision-making was concerned. Consequently, his delegation fully supported the USSR amendment to rule 15. The purpose of the amendment was to clarify the authority of the General Committee with respect to the time when all efforts at consensus on substantive matters had been exhausted, and also with regard to the method of voting which should be adopted as a result. The amendment reflected the special role of the General Committee without detracting from the authority or functions of the Main Committees. If the rules of procedure did not lay such special responsibility on the General Committee, it was difficult to see how the Conference would decide on matters of voting on the results of the work of the Main Committees.

34. Finally, his delegation wished to express its dissatisfaction at the fact that the Republic of South Viet-Nam had been excluded from the Conference and that the Conference was thus not genuinely universal in nature. In accordance with the principle of sovereign equality of States, all States without exception should have the right to participate in international conferences of interest to the entire international community.

35. Mr. WARIOBA (United Republic of Tanzania) said that the point made by the representative of Malta was well taken and would be considered by the Group of 77. He also pointed out that the gentleman's agreement would not appear as an appendix to the rules of procedure, and that the proposed amendment to rule 37 was made in an attempt to comply with the spirit of that agreement.

36. Mr. BAYDUR (Turkey) said that his delegation had proposed the amendments contained in document A/CONF.62/8 because it considered that when delegations put forth proposals, they should have the opportunity to express their views on those proposals. The rule, as amended, would have the added advantage of reducing the time spent discussing particular proposals.

37. Mr. HARRY (Australia), introducing his delegation's amendments (A/CONF.62/9), observed that the document already provided explanatory comments. In general, the draft rules of procedure prepared by the Secretariat were fully acceptable. However, the general purpose of his delegation's amendments was to ensure that the rules of procedure, in particular those concerning voting, should be such as to discour-

- age and perhaps even prevent premature voting. He felt that his delegation's amendments constituted a happy medium between those in document A/CONF.62/4 and those in A/CONF.62/6.
38. In his delegation's second amendment, concerning rule 37, the suggested figure of 15 should in no way be regarded as non-negotiable. With reference to his delegation's third amendment, to draft rule 39, he had calculated that, under rule 21, a quorum would also represent a majority for the purposes of voting. If 75 States were present and 25 abstained from voting, a decision could be taken by a vote of only 34 in favour. The amendment to rule 39 was aimed at avoiding such a situation.
39. In addition, it would be useful if the gentleman's agreement was in some way adopted by the Conference. Discussions were at present under way, and perhaps the gentleman's agreement could be incorporated in a Conference resolution.
40. Mr. WEHRY (Netherlands), introducing his delegation's amendment (A/CONF.62/11), said that a situation could be envisaged in which, for example, a specific decision concerning archaeological treasures was before the Conference. Under his delegation's proposal such a decision could not be voted upon except within the framework of a series of votes on all related questions. In other words, if the sponsor of a text declared it to be part of an over-all package deal, the text could not be voted upon separately.
41. Mr. GODOY (Paraguay) expressed support for the statement made by the President on the previous day to the effect that no State had the right to double representation in the main organs of the Conference. Referring to document A/CONF.62/2 Add.1, he pointed out that paragraph 3 of that document, containing a revised rule 14, omitted any reference to the offices of Vice-Presidents of the Conference or Vice-Chairmen of the Main Committees. His delegation understood that the omission resulted from an agreement reached at the third meeting that those offices would be assigned to States and not to individuals. However, his delegation would have preferred mention of those posts to be made in revised rule 14.
42. The PRESIDENT, in reply to a question put by Mr. ZEGERS (Chile) concerning the Conference's programme of work, said that, in addition to considering a possible report from the Credentials Committee, the Conference would the following day continue its consideration of the draft rules of procedure rule by rule. He proposed that 3 p.m. the following day should be fixed as the deadline for consensus to be reached. If no consensus was reached, disputed articles would be put to a vote.
43. Mr. STEVENSON (United States of America) expressed his delegation's serious reservations concerning the view that the rules of procedure could be adopted by a simple majority. The fact that, in the past, rules of procedure at international conferences had usually been adopted by acclamation did not indicate that the international community had agreed to be bound by a simple majority vote if the conference concerned did not so agree. It would be a very unfortunate beginning for the Conference if rules of procedure concerning such fundamentally important questions as that of the decision-making process were adopted by a simple majority.
44. Mr. OGISO (Japan) associated his delegation with the views expressed by the representative of the United States. The Conference had so far operated by consensus. It was arbitrary to set a certain time at which the Conference would be said to have failed to reach consensus. After 10 days of discussion on the allocation of posts, the Conference had reached agreement. While he did not exclude the possibility of agreement being reached by 3 p.m. the following day, it was unacceptable that only two days should be allocated to consideration of the rules of procedure.
45. Mr. ZEGERS (Chile) agreed that, if a consensus solution could not be arrived at, the Conference must proceed to a vote. The General Assembly had set a time-limit for the Conference's organizational session; moreover, the Assembly's rules of procedure—as well as those of all international conferences held previously—contained the rule of simple majority voting, which was the only rational rule. He also recalled that the gentleman's agreement did not refer to procedural matters, but only to questions of substance. If a short general debate the following day, followed by consultations and negotiations, did not produce a consensus, the Conference would have to proceed to a vote on the rules of procedure.
46. Mr. SMIRNOV (Union of Soviet Socialist Republics) agreed that the Conference should not adopt its rules of procedure by a simple majority in circumstances of haste.
47. Sir Roger JACKLING (United Kingdom) said that the adoption of the rules of procedure was an issue fundamental to the future of the Conference, and certainly constituted a question of substance. If, the following day, the Conference had not arrived at a solution broadly satisfactory to all representatives, it should pause to consider its next step; it should not decide at the present meeting that a vote would be held at a specific time the following day. He reserved his delegation's position on the President's proposal.
48. The PRESIDENT observed that it would be useful if members who did not accept the normal procedure of voting by simple majority suggested an alternative procedure. The concept of what was broadly satisfactory could not be defined numerically.
49. Mr. JEANNEL (France) said that it would augur ill for the Conference if a vote had to be taken the following day. Such a lengthy document as the draft rules of procedure could not possibly be discussed seriously and thoroughly in so short a time, neither would it be possible to give proper consideration to the numerous amendments which had been introduced. The sponsors should be given an opportunity to have consultations and exchanges of view. It was not a question of courtesy to the delegations which had put forward draft amendments, but of respect for their fundamental and sovereign right to set forth their views. He did not think that the Conference could take such a casual attitude to its participants.
50. It had frequently been repeated that a time-limit had been set by the General Assembly with regard to the rules of procedure for the Conference. In fact, the General Assembly had merely convened an initial session to deal with organizational questions. Indeed, the Conference was composed of sovereign States and was master of its own decisions. If it was unable to make sufficient progress, it would have to adapt itself to such a *de facto* situation, but his delegation did not think that the Conference should be impelled to violate the most elementary rules of international democracy. How could the Conference possibly undertake a vote on the following day on a subject of such primordial importance without having had an opportunity to consider the diverse views set forth by the various parties?
51. In the view of his delegation, a decision on the draft rules of procedure could be taken only by unanimity. His delegation was most anxious that the Conference should complete its organizational work and adopt its rules of procedure, but could not agree that they should be adopted by a vote. If no general agreement emerged, the Conference would have to continue to study the draft rules of procedure and have a full discussion on them.
52. The PRESIDENT said that the session of the Conference could be extended to 18 December 1973, if necessary.
53. Mr. BEESLEY (Canada) said that his delegation was concerned at the Conference's slow rate of progress of work on the draft rules of procedure. However, he felt that all delegations would wish to achieve general agreement, and that the Conference should pursue its work, but should envisage a cut-off date. The Committee need not decide then and there whether it would then vote and, if so, by what kind of majority. His delegation was anxious to work out the differences dividing

the Conference, but agreed with the President's suggestion that it should try to agree on some deadline.

54. Mr. JAGOTA (India) recalled that the Conference had already followed the rules of procedure of the General Assembly when electing its officers. The question arose of the rule to be used when adopting its rules of procedure. The text of a convention was a substantive matter of law, but the rules of procedure were a procedural matter. It was clear from the gentleman's agreement that the General Assembly wished the Conference to make every effort to reach a consensus on matters of substance. If the rules of procedure constituted a substantive question, a consensus was therefore essential. If no consensus was possible a decision would have to be taken by vote. He therefore agreed with the view expressed by the President that if no consensus was achieved, a decision should be taken by vote.

55. Mr. WARIOBA (United Republic of Tanzania) said that the task of the Conference was to complete its agenda, including the adoption of rules of procedure. In the view of his delegation the Conference should continue its efforts to find a consensus.

56. Mr. AGUILAR (Venezuela) said that he agreed with the representative of the United Republic of Tanzania that the first phase of the Conference should not conclude without the adoption of the rules of procedure for the Conference. The draft rules of procedure had been circulated on 16 November 1973 and all delegations had had sufficient time to study them carefully. The differences of view related mainly to voting procedures in the Committees and the majority required in votes in the Committees and in plenary. The positions of delegations were so familiar that there was no need to have a very lengthy discussion on them. What was needed was the political will to reach agreement. His delegation felt that there was in fact a desire to reach unanimity if possible, or at least an agreement acceptable to most delegations. Despite the fact that the gentleman's agreement did not extend to matters of procedure, an effort should perhaps be made to reach a consensus on the draft rules of procedure. However, if it proved impossible to reach a consensus, a vote would have to be taken by a simple majority. His delegation believed that it would be unforgivable if the Conference found itself obliged to reopen the question of the rules of procedure in Caracas.

57. Mr. ZOTIADES (Greece) said that his delegation considered that the question of the draft rules of procedure should be treated on the same basis as matters of substance, in view of the critical importance of the Conference. The failure of the two previous Conferences on the Law of the Sea should be an argument in favour of avoiding the mistakes of those Conferences. If the forthcoming Conference was to be successful the rules of procedure would have to satisfy as many delegations as possible, and a consensus would be most desirable. However, if that proved impossible, then the broadest possible majority

should be adopted since that would be closer to the idea of a consensus than a simple majority.

58. Mr. GLEISSNER (Austria) said that his delegation felt that the Conference should seek first to achieve a consensus; if that were not possible it would perhaps be advisable to decide by consensus to vote.

59. Mr. LING Ching (China) said that his delegation felt that a discussion of the draft rules of procedure should continue with a view to achieving a consensus. However, if no consensus could be reached, the Committee should take a vote. It believed that the Conference ought to complete its work and should not on any account be obliged to resume its discussions on procedure at Caracas.

60. The PRESIDENT suggested that after the remaining draft amendments had been introduced on the following day, he should meet the sponsors in order to attempt to narrow down areas of disagreement.

61. Mr. WEHRY (Netherlands) supported that suggestion.

62. Mr. ENGO (Cameroon) felt that the Conference was being treated to a new dimension in the definition of democracy. The word "consensus" had been belaboured considerably and if the Conference was to agree on its rules of procedure, time was of the essence. He did not think that the Conference should view its inability to reach a consensus in terms of time. While all delegations wished to accommodate the views of the minority, rule by the minority was dangerous. In his view, the Conference was dissipating valuable negotiating time, and he therefore wished to make a formal proposal for the adjournment of the meeting.

Appointment of the Credentials Committee (concluded)*

63. The PRESIDENT said that, following consultations with members of the various regional groups, he wished to propose that the Credentials Committee be composed of the following nine members: Austria, Chad, China, Costa Rica, Hungary, Ireland, Ivory Coast, Japan and Uruguay. If he heard no objection, he would take it that the Conference agreed to that composition.

It was so decided.

64. The PRESIDENT said that he also wished to suggest that, for the current session of the Conference, the rules of procedure of the General Assembly concerning the Assembly's Credentials Committee should apply to the Credentials Committee of the Conference. If he heard no objection, he would take it that the Conference agreed to that procedure.

It was so decided.

The meeting rose at 7 p.m.

*Resumed from the 7th meeting.

10th meeting

Friday, 14 December 1973, at 11.20 a.m.

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

Adoption of the rules of procedure (A/CONF.62/2 and Add.1 and 2, A/CONF.62/4-13) (continued)

1. The PRESIDENT, after announcing that Madagascar had become a sponsor of the amendments contained in document A/CONF.62/4, invited those members of the Conference who

had not yet done so to introduce amendments to the draft rules of procedure (A/CONF.62/2 and Add.1 and 2.). The Conference would then adjourn in order to enable the sponsors of amendments to carry out the necessary consultations for finding points of agreement, with a view to arriving at a decision on the draft rules of procedure.