

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.115

115th Plenary meeting

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume XI (Summary Records, Plenary, General Committee, First, Second and Third Committees, as well as Documents of the Conference, Eighth Session)*

negotiations were conducted with a view to settling the outstanding issues. His delegation was anxious that a sea-bed mining régime should be established very rapidly and that exploitation should begin as soon as possible in the interests of all mankind and more particularly of the developing countries. Possible losses incurred by countries producing land-based

minerals could be compensated for from the revenues of the Authority if the Conference agreed to establish machinery for that purpose. It should give favourable consideration to that idea in the future negotiations.

The meeting rose at 8.05 p.m.

115th meeting

Friday, 27 April 1979, at 12.30 p.m.

Chairman: Mr. H. S. AMERASINGHE.

Organization of future work of the Conference

1. The PRESIDENT said that he wished to inform the plenary meeting of the recommendations of the General Committee concerning future work. The General Committee recommended that the Conference should meet in resumed session in New York for a period of six weeks from 16 July to 24 August 1979. The first three days of that period would be reserved for meetings of the Group of 77 or its contact group and the resumed session would open formally on 19 July. From 16 to 18 July, any other group wishing to meet would be provided with the necessary facilities.
2. The General Committee had decided that at the resumed session priority should be given to First Committee matters, without precluding consideration of other matters falling outside the First Committee's competence. The General Committee had also agreed that, following the discussion of First Committee matters and in the period commencing 6 August, the Third Committee should be given an opportunity of meeting to consider further the provisions of part XIII of the informal composite negotiating text¹ in the light of negotiations in the First and Second Committees.
3. The General Committee had agreed that the existing negotiating structures—including the working group of 21 for First Committee matters—should be maintained during the resumed session. There had been some expression of hope that the group would function in a more informal atmosphere than hitherto and that its composition would permit an appropriate form of rotation.
4. Finally, the General Committee had been informed that arrangements would be made for the consideration of all outstanding issues, including those already referred to in paragraph 6 of document A/CONF.62/62.² Those issues included the preamble and final clauses, as well as the proposals made by Peru, Nepal and Portugal.
5. He said that if he heard no objection, he would take it that the plenary approved the recommendations of the General Committee.
It was so decided.
6. Mr. YOLGA (Turkey) pointed out that the President had alluded to only one of the three issues identified in paragraph 6 of document A/CONF.62/62.
7. The PRESIDENT said that it had not been his intention to assign lesser status to the issues of the régime of islands and enclosed or semi-enclosed seas.

¹Official Records of the Third United Nations Conference on the Law of the Sea, vol. VIII (United Nations publication, Sales No.E.78.V.4).

²*Ibid.*, vol. X (United Nations publication, Sales No.E.79.V.4).

Adoption of a convention dealing with all matters relating to the law of the sea, pursuant to paragraph 3 of General Assembly resolution 3067 (XXVIII) of 16 November 1973, and of the final act of the Conference (*continued*)

REPORT OF THE CHAIRMAN OF THE FIRST COMMITTEE (*continued*)

8. Mr. RICHARDSON (United States of America) said that he wished to make a number of additional comments to supplement his delegation's statement on the previous day concerning the readiness of the United States to have the work of the various First Committee negotiating groups incorporated in any revision of the negotiating text. In the view of his delegation, good progress had been made in those groups in a number of areas, including the difficult matter of the working of the parallel system in annex II, and the means of making technology available to the Enterprise and ensuring the viability of the Enterprise as a commercial operator within the framework of annex II. Progress had also been made in dealing with the issue of the composition of the Council, although the most difficult issues concerning numbers and voting remained unsolved. The Group of Legal Experts had made an important contribution to the improvement of the system of dispute settlement under part XI of the negotiating text.
9. He was compelled, however, to draw attention to a number of areas in which his delegation continued to have serious difficulties with the texts in document WG21/1, and he wished to emphasize that the list was illustrative rather than exhaustive. His delegation still had some difficulty with article 140, which would unwisely tax the Authority with a political burden which might prove overwhelming. His country's steadfast objection to the possible moratorium on sea-bed mining which could be invoked under article 153, paragraph 6, at the time when the world would have the greatest need from minerals was also well known, and he simply wished to restate that objection. His delegation was also concerned with a number of provisions in annex II, including certain remaining problems connected with the transfer of technology. In addition, it believed that further work was needed on paragraph 5 *bis* concerning the question of the relationship of the Enterprise with other applicants. An absolute priority for the Enterprise over such applicants was a matter which required much more careful consideration when the issue of the availability of mine sites under the production ceiling was considered.
10. There had been considerable progress in Negotiating Group 2 towards reaching an understanding of the complex financial requirements of the deep sea-bed mining industry and of the possible tax régimes which would be fair both to the industry and to the Authority. A consensus had not yet, however, been achieved on financial arrangements. An acceptable

scheme must recognize the inherent limitations of the power of the Authority to raise revenue and should take into account the great risks incurred by investors. Since those problems had not been fully resolved, his delegation approved of the decision by the Chairman of Negotiating Group 2 not to attempt to make any major changes in the text on financial arrangements at the time. Work on those problems must continue at the resumed session and, indeed, during the inter-session period.

11. His delegation was particularly disappointed, however, in one regard. Adequate, even generous, provision had been made in annex III of the negotiating text for the financing of the Enterprise. In document WG21/1, it was proposed to increase the paid-in refundable capital to one half of the capital requirements of the Enterprise and to eliminate the provision that it should be drawn only as needed. The new provisions changed the entire character of the paid-in refundable capital from back-up collateral to mandatory, albeit refundable, Government contributions to the Enterprise. That burden on Member States was not justified by the objective of financing the Enterprise and there was no indication that the States represented in the Conference would be willing to accept it.

12. The Group of Legal Experts had worked constructively and his delegation hoped that it could continue its work during the resumed session. Further and more intensive follow-up work was also needed on production limitation.

13. His delegation considered that it would be a mistake to underestimate the difficulties still ahead, but it was committed to negotiations on a viable system of deep-sea mining both for the Enterprise and for States parties. It considered that substantial progress had been achieved at Geneva and looked forward to resuming the quest for a viable consensus in New York.

14. Mr. KOROMA (Sierra Leone) said that while his delegation remained unconvinced of the timeliness of embarking on the revision exercise, it considered that the Conference should give thought to the form which the proposed revision was going to take. His delegation did not believe that it would be productive merely to replace one article by another. It therefore agreed with the Jamaican delegation's proposal concerning the form of review.

15. In the view of his delegation, the First Committee issues which were still unresolved had now crystallized in the group of 21 and all further negotiations should be conducted in that group.

16. Mr. MI-ENDAMNE (Gabon) said that his delegation's silence in the discussion should not be interpreted as an overall acceptance of everything that had occurred in the First Committee. His delegation believed that the work undertaken at the Conference should be directly linked with the establishment of the new international economic order, but it noted that the principles underlying the order appeared to have been systematically eliminated in the course of the Conference's work. His delegation was attached to those principles and could not accept the tactics employed to hasten the adoption of the convention. In the capitalist world, there were 588 cartels which would enable the industrialized countries of East and West to establish a further cartel to pillage the wealth of the sea-bed, a procedure entirely unacceptable to his delegation.

17. In conclusion, he wished to request the President to invite representatives of the World Intellectual Property Organization, the United Nations Industrial Development Organization and the United Nations Conference on Trade and Development (UNCTAD), at the next session of the Conference, to review progress in the negotiations on the transfer of technology. His delegation would also like representatives of UNCTAD and of the General Agreement on Tariffs and Trade to report on the negotiations conducted on commodities. It would also be useful for a representative of the Organization

for Economic Co-operation and Development (OECD) to read out a communiqué drawn up by the United States of America, the United Kingdom, the Federal Republic of Germany and France, which had appeared in *The New York Times* of 20 January 1960.

18. The PRESIDENT said that the Conference was not engaged in discussions of substance. Any revision was merely intended to serve as a further basis for negotiations on the corresponding provisions of the negotiating text. He did not see why a representative of OECD should read out the contents of a communiqué issued in 1960 which was available to anyone who wished to read it. As for the other organizations referred to by the representative of Gabon, they had already been invited to attend the meetings of the Conference and could be invited to address the various Committees on matters relevant to the negotiations of those Committees.

19. Mr. DIOP (Senegal) said that his delegation was satisfied with the report by the Chairman of the First Committee and wished to thank all who had participated in that Committee's work. He believed that the report, despite certain shortcomings, could be incorporated as a whole in a revised negotiating text. There were, however, a number of issues which were still pending, particularly article 155, paragraph 6, which could give rise to disputes in the future. Articles 160 and 161 revealed the existence of certain contradictions between the character of the Assembly and that of the Council. In annex II, paragraphs 5 and 12 seemed to indicate that the mandatory character of the transfer of technology was considerably weakened and might be rendered ineffective. His delegation hoped that that question would be considered carefully.

20. The PRESIDENT said that the Conference had concluded its consideration of the report of the Chairman of the First Committee.

21. Mr. ZULETA (Special Representative of the Secretary-General) recalled that, at the opening meeting of the current session, the Chairman of the First Committee had suggested that "it is not too early to start thinking about how to staff the Authority with the full range of experts that its responsibilities will require and where those experts will come from" (110th meeting, para.51). Since many developing countries might be unable to provide the necessary experts, particularly in the scientific and technical fields, to meet the need for equitable geographical balance in the Authority's staff. The same concern was reflected also in a recent decision of the Council of Ministers of the Organization of African Unity calling for an immediate programme of training of developing-country personnel. The Chairman of the First Committee had also made the important point that it was necessary to provide not only for the staff of the Authority but for the even more important long-term objective of helping to prepare developing countries to participate in the full range of activities involved in the use of marine resources.

22. The Secretary-General welcomed the initiative taken by the Chairman of the First Committee and the Council of Ministers of the Organization of African Unity and shared their concern, particularly regarding the viability of the future international organization and the capacities of the developing countries in marine science and technology and resource development. Indeed, it was evident that similar categories of managerial, research and technical staff would be needed at both international and national levels.

23. The Chairman of the First Committee had suggested that the Secretariat might first prepare an up-to-date analysis of the probable composition of the Authority's staff, and that of its secretariat in particular, in order to help establish its needs for the first five years. That could be done. But he wished first to draw the attention of the Conference to two earlier documents

prepared by the Secretariat (A/CONF.62/C.1/L.17³ and L.19⁴) concerning the costs of the Authority. In those documents, tentative estimates had been made of professional staffing needs and costs, but—since the documents dealt essentially with costs and financing—without seeking to analyse the functions to be performed or the qualifications and experience that would be considered most appropriate. While the Secretariat could do much to clarify those earlier estimates, it might not be advisable or justifiable at the present juncture to introduce changes in scale. The documents had not in fact been discussed, so that the Secretariat had no sense of the reasonableness or otherwise of the estimates they contained, and there had been no striking developments which might enable it to raise or lower those estimates with any confidence.

24. Paragraph 4 of document A/CONF.62/C.1/L.17 contained the following statement: "The gaps in available information in relation to possible forms of operation, practical requirements with respect to equipment, operating capacity and managerial skills will have to be filled in successive stages." With the co-operation and assistance of delegations, the Secretariat could now, three years after that report had been prepared, fill in some of those gaps, thus providing a broader information base from which it might be possible to derive a better appreciation of future needs. In doing so, the Secretariat would take account of the fact that the Authority would depend not only on a permanent nucleus of Secretariat staff but also on the expertise and experience existing in the membership of its main organs and subsidiary bodies and on the availability of a variety of specialized skills to meet more short-term requirements. Also, while it could be assumed that the Authority might focus on the mining sector of deep-sea mineral resource development, an examination of the actual industry as a whole and the scope of international co-operation envisaged in many areas would involve a much wider range of activities that could be relevant to the managerial role of the Authority and the operations of the Enterprise. Opportunities for participation in the broad sense and perceptions of trained manpower needs would consequently be far more extensive and varied than if only the permanent staffing needs of the future organization were examined—as would, for that matter, the needs of a contractor engaged in extracting nodules from the sea bottom, which could not be considered a labour-intensive operation. It could also be assumed that, in the future, there might exist a wide range of major sources for the specialized education, training and on-the-job experience envisaged. In that respect it was noted that, according to articles 274 and 275 of the negotiating text, on co-operation with international organizations in the transfer of technology to developing States and on the objectives of the Authority with respect to the transfer of technology, the Authority itself would be expected to assume major responsibilities in training and technical assistance "with regard to the exploration of the area, the exploitation of its resources and other related activities".

25. Contractors and partners in a joint venture with the Enterprise would clearly play a role, as might sponsoring States. Other States, international organizations, and special regional centres for marine science and technology, as envisaged in the report of the Chairman of the Third Committee (A/CONF.62/L.34), would also offer a wide range of education and training opportunities. A considerable number of relevant education and training programmes were, of course, already in existence, whether carried out in the context of the United Nations Educational, Scientific and Cultural Organization TEMA⁵ programme in the marine sciences, or for example as part of a United Nations Development Programme mineral-resource development project, or as part of the educa-

tion and training offered under various programmes by developed countries.

26. The Secretariat could undertake over the next several months, preferably with the assistance and advice of delegations, an examination of the nature and extent of future sea-bed exploration and exploitation activities—operational and non-operational—covering such central functions as systems planning and integration, such operational components as mining, processing and marketing, such supporting activities as transport and materials handling, and such regulatory aspects as environmental protection. The activities would be described by functions and in terms of the knowledge and skills required, whether at managerial, research, technical or semi-skilled levels. Such an over-all review might serve to clarify a number of questions as to the general availability of such personnel around the world, the special additional qualifications or experience that would be required to produce what might be called "deep-sea miners and managers", and the kinds of priorities or special needs that might be identified with respect to the functions of the Authority and the operations of the Enterprise at the early stages. It could also serve to highlight the needs of developing countries in marine science technology and resource development. As already stated, the exercise would not be a quantitative one, i.e., no attempt would be made to go beyond the numbers already estimated in the earlier papers. Comments from delegations would be welcomed, if possible, even at the present stage.

27. Mr. ARCULUS (United Kingdom) said that his delegation had been studying the important subject of training since the end of the resumed seventh session in New York. All the countries represented at the Conference attached great importance to the Enterprise beginning to operate quickly once a convention entered into force. One of the ways of helping to achieve that objective was to start as soon as possible the training of personnel in the fields to which the Chairman of the First Committee had referred in his statement.

28. Mr. Engo had pointed out that technical programmes to assist students from developing countries already existed. The United Kingdom, for its part, was already supporting overseas students in a variety of courses relating to marine development and would gladly consider requests from developing countries for training awards within the context of its own technical co-operation training programme in subjects that were relevant to sea-bed mining. He was hopeful that, together with other countries which had similar facilities, the United Kingdom could provide openings for training qualified students from developing countries in the various aspects of marine development. As regards co-operation with universities and other institutions in developing countries, the United Kingdom was already assisting in that area and was prepared to consider further help. The British sea-bed mining industry had also offered to co-operate, so that the help offered could be comprehensive.

29. His Government had been considering the possibility of some additional mechanism for promoting and encouraging training in the particular areas of expertise relevant to the operations of the Authority and the Enterprise. Two categories of training seemed to be required, namely, general management and specialized skills. Existing arrangements between developed and developing countries for training should provide opportunities for training in the disciplines required, but the specialized skills in sea-bed training might best be provided by special arrangements tailored to those needs. It was necessary to consider what was required well in advance of the establishment of the Authority.

30. The Chairman of the First Committee had already proposed the essential first step, namely, a study to be made of the Authority's specialized manpower needs. The United Kingdom delegation hoped that such a study would be completed as soon as possible. The subsequent steps should be to inves-

³ *Ibid.*, vol. VI (United Nations publication, Sales No. E.77.V.2).

⁴ *Ibid.*, vol. VII (United Nations publication, Sales No. E.78.V.3).

⁵ Working Committee on Training, Education and Mutual Assistance.

tigate the training facilities which could be made available or devised to meet those needs and to co-ordinate the arrangements for placing students.

31. His delegation wished to make the specific suggestion that, immediately following the signature of a convention, a provisional training fund should be established to finance training awards for qualified students in the disciplines identified as being relevant to the needs of the Authority and the Enterprise. He envisaged such a fund as being financed by voluntary contributions pledged by States and administered on a multilateral basis. It would be complementary to the resources of existing technical training funds and of the States themselves, and would give priority to assistance to students from the poorer developing countries, providing a source of training funds until the Authority itself was established. Such a fund would be a very practical means of promoting and encouraging the training of personnel from developing countries to provide a pool of specialist managerial and technical expertise that could be drawn upon. Thus the Authority would not be handicapped in its recruitment, and developing countries would benefit generally. He hoped that the body administering the fund would be able to call upon existing sources of expertise to provide the training required.

32. If the suggestions just made met with a sympathetic response, it would clearly be necessary to go more deeply into

the question of funding and also of administration. At the present stage he could already say that, if agreement could be reached on the establishment of such an interim training fund on a multilateral basis, the United Kingdom would expect to be able to make an appropriate financial contribution to its resources in the light of the needs of the developing countries to which, as mentioned earlier, it was already providing assistance in other ways.

33. The suggestion made by the Chairman of the First Committee, which the United Kingdom delegation had taken up with enthusiasm, offered an opportunity to turn words into deeds. The United Kingdom believed that deep sea-bed mining should be a co-operative effort between the developed and the developing worlds. It was not without experience in the fields involved and was prepared to help make that co-operative effort a reality. He hoped that other delegations would join his own in taking those proposals further, perhaps at the resumed session in New York.

34. Mr. DIOP (Senegal) suggested that, in view of their great importance, the texts of the last two statements should be circulated to the delegations in full.

35. The PRESIDENT said that the statements would be reproduced *in extenso* in the record of the meeting.

The meeting rose at 1.20 p.m.

116th meeting

Friday, 27 April 1979, at 3.45 p.m.

Chairman: Mr. H. S. AMERASINGHE.

Adoption of a convention dealing with all matters relating to the law of the sea, pursuant to paragraph 3 of General Assembly resolution 3067 (XXVIII) of 16 November 1973, and of the final act of the Conference (*concluded*)

REPORT OF THE CHAIRMAN OF THE FIRST COMMITTEE (*concluded*)

1. Mr. DE LACHARRIÈRE (France) said that the French delegation was fully aware of the need for developing countries to have qualified personnel so that they could participate fully in the exploration and exploitation of the sea-bed, since that was the only way to give full meaning to the concept of the common heritage of mankind.

2. France already had some experience in training research workers in all branches of oceanology, especially geophysics and the industrial development techniques relating to marine exploration and different types of new energy, and it was ready to take an effective part in activities that would help developing countries to establish the necessary infrastructures, such as oceanological institutes, to implement a rational policy for the exploration and exploitation of the resources of their economic zones and the management of their coastal areas, to carry out studies on environmental impact, and to take part in the exploration of the international area of the sea-bed and the exploitation of its resources.

3. The National Centre for Ocean Exploration, which in France was the main training centre together with a number of other French institutions, engineering schools and laboratories, was preparing a medium-term programme of action covering both international co-operation and national activities. In addition, France would be ready, on request, to discuss and elaborate joint projects for campaigns of special

interest to a particular country, group of countries or region. In its sea-going expeditions, a list of which was published every year and communicated to the Intergovernmental Oceanographic Commission, France would also be able, if sufficient advance notice was given, to reserve places for research personnel from developing countries and even to provide them with short courses in laboratories concerned before embarking for the expedition. The States members of the European Economic Community were also prepared to take part in such training, as was clear from the seminar on sea-bed exploration and exploitation which they had organized at Brussels in 1977.

4. Training projects would evidently call for a sustained effort and organization and, in his view, the first objective should be to define requirements, so that they could be met in a consistent and orderly manner, with all available resources and means being used as efficiently as possible.

5. Mr. WOLFF (Federal Republic of Germany) said that he welcomed the plan prepared by the Chairman of the First Committee for the training of personnel. That was a most important question since one essential requirement for technology transfer was that recipients should be able to make use of the technology they received. The Federal Republic of Germany would support any programme elaborated by the Conference in that connexion.

6. Mr. RICHARDSON (United States of America) reaffirmed the willingness of his Government to support the plan proposed by the Chairman of the First Committee aimed at generating a pool of trained personnel from developing countries who would comprise important segments of the staff of the Authority and the Enterprise. He added that the training