

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.117

117th Plenary meeting

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

PLENARY MEETINGS

117th meeting

Thursday, 19 July 1979, at 10.25 a.m.

President: Mr. H. S. AMERASINGHE

Opening of the resumed eighth session

1. The PRESIDENT declared open the resumed eighth session of the Third United Nations Conference on the Law of the Sea.

Organization of work

2. The PRESIDENT recalled that the objective for the seventh session had been the completion of all substantive discussions for production of a draft convention and the revision of the informal composite negotiating text.¹ The seventh session had ended without effecting such a revision.

3. The approved organization of work for the eighth session had had as its objective the conclusion of informal negotiations and revision of the informal composite negotiating text. The Conference had also agreed that, following the revision, the question of formalizing the revised informal composite negotiating text would be considered before the end of the eighth session.

4. At the eighth session, the Conference had decided on a further innovation in its procedure: it had agreed that, as the problems of the First Committee were different in character and scope from those of the Second and Third Committees, it was necessary, before the issues concerning all three committees reached a stage when the actual task of revision should be undertaken, that all such negotiations as were still required in the attempt to resolve existing difficulties as far as possible should be conducted in a group of manageable size representing the interests involved. A group of 21 delegations, in addition to the Chairmen of negotiating groups 1, 2 and 3 and the group of legal experts on the settlement of disputes relating to part XI, had been established to co-ordinate, without review or alteration, the results achieved in the three negotiating groups, determine outstanding issues and find acceptable solutions.

5. Through the zeal and persistence of the Chairman of the Committees and the Chairmen of the negotiating groups, and with the co-operation of delegations, it had been possible to prepare a first revision of the informal composite negotiating text (A/CONF.62/WP.10/Rev.1), issued after the suspension of the eighth session. With the presentation of that revised text, the Conference had reached a new phase in its work.

6. He also drew attention to his letter of 29 June 1979 addressed to delegations and containing proposals regarding the work of the resumed session. He requested delegations to consider the proposals and, after consultation with one another in regional and other interest groups and between such groups, to communicate their conclusions to him. In the meantime, negotiations would proceed in the same groups as before.

7. He had indicated in paragraph 3 of the letter that it would be most desirable to devise a procedure that would enable the three co-ordinators, namely, the Chairmen of negotiating groups 1, 2 and 3, to conduct further consultations and negotiations on the issues which had originally been allocated to their respective negotiating groups and which had already formed the subject of negotiations in the working group of 21.

8. In the tentative schedule of meetings attached to the letter, reference was made to meetings of the group of 21. The Chairman of the First Committee, who was also the Chairman of negotiating group 3, would be free to decide, in consultation with the Chairmen of negotiating groups 1 and 2, whether the time allocated to the group of 21 could best be used for meetings of the separate negotiating groups or for meetings of the group of 21 itself.

9. The innovation that he had suggested was that, if the negotiating groups deemed it necessary in the interest of efficiency and expeditiousness to conduct more intensive negotiations in smaller groups before taking their results to the working group of 21, the working group might establish such smaller groups for that purpose.

10. As he had stated in paragraph 3 of his letter, the adoption of the system of alternate members would permit the appropriate representation of the special interests involved in the particular matter that happened to be the subject of negotiation in any of those groups at any particular time. He had also indicated that the group of legal experts on the settlement of disputes relating to part XI would need time for the negotiations. The results of their work would, as before, be presented to the Chairman of the First Committee for consideration in the working group of 21, which co-ordinated all First Committee matters.

11. The tentative schedule was subject to revision, and the Chairmen or any others who wished to suggest certain revisions should bring them to his notice and to the notice of the Special Representative of the Secretary-General, so that suitable adjustments could be made in the schedule.

12. In paragraphs 6 and 7 of his letter, he had suggested the establishment of a group of legal experts to consider the technical aspects of the final clauses and the establishment of a preparatory commission which would deal with all matters requiring attention between the signing of the convention and its entry into force and relating to the administrative and other measures to be taken for the convening of the first meeting of the Assembly, the establishment of the Authority and other relevant matters. He requested delegations to consider the matter and conduct consultations between geographical groups and between other interest groups, so that he could present a proposal that was generally acceptable to the Conference. The group of legal experts could be established after there had been preliminary consideration of those questions, particularly the question of final clauses, in informal plenary meetings.

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).

13. The Conference would have to work with a deep sense of urgency. From all sides he had had indications that the patience of Governments was nearing exhaustion. If, therefore, negotiations on the hard-core issues—without excluding consideration of other issues—were to be concluded, every effort must be made to complete the work of the negotiating groups and the group of 21, or any similar groups that were established, by the end of the third week of the resumed session. The strain imposed on the Chairmen of the Committees and of the negotiating groups was heavy, and their responsibility was formidable. It was owing to their perseverance and diligence and the assistance they had received from delegations that it had been possible to achieve even the amount of success that could be put on record thus far.

14. In conclusion, he said that the most serious problem of all was that of giving shape, form and substance to the concept of the common heritage of mankind. The difficulties that existed arose, in his view, out of the sharp differences that were found between most of the industrialized countries and the developing countries regarding the interpretation of that concept. Under the so-called parallel system, a compromise had been devised between the two conflicting interpretations, but to give effect even to that compromise, it was necessary to carry out further negotiation on many problems, such as the financing of the Enterprise, the financial terms of contract which would offer inducement to investors while providing tangible financial return to the Authority, and the manner in which decisions were to be taken in the Council, which would be the Authority's executive organ.

15. The idea of a single entity exploiting the common heritage of mankind—a vast natural resource which none could claim or appropriate—on behalf of mankind, and for the benefit particularly of its less privileged sector, was a bold concept. The success of such an unprecedented endeavour would transform the spirit and pattern of international relations from one of ceaseless divergence and conflict to one of enduring fraternity and co-operation.

16. Mr. UPADHYAY (Nepal) recalled that at the seventh session his delegation had introduced a proposal on a common heritage fund (A/CONF.62/65)² which the President, in

²*Ibid.*, vol. IX (United Nations publication, Sales No. E.80.V.6.).

his explanatory memorandum contained in document A/CONF.62/WP.10/Rev.1, had cited as requiring further negotiation during the resumed eighth session.

17. While the proposal had not been formally discussed at the Conference, it had been the subject of a great deal of informal discussion. Furthermore, a working group consisting of India, Nepal, Pakistan, Oman, Singapore and Sri Lanka had been established by the group of Asian States to examine the implications of the proposal. That group, he understood, would be meeting very soon. However, he suggested that in order to provide an appropriate forum of the Conference in which the proposal could be considered, the Conference should decide to establish a working group to consider the proposal and other outstanding issues.

18. The PRESIDENT welcomed the fact that a working group had been established within the group of Asian States to consider the proposal on a common heritage fund. As to the suggestion to set up a separate working group within the Conference, he wished to hold consultations on the matter, since it was necessary to avoid a proliferation of working groups.

19. Mr. ENGO (United Republic of Cameroon), speaking as Chairman of the First Committee, said he felt that the tentative schedule of meetings attached to the President's letter of 29 July 1979 should not be considered too rigidly with regard to the work of the First Committee. While the working group of 21 was expected to conclude its work within the first three weeks of the resumed session, the first week had almost ended, leaving it only two weeks to complete its work.

20. Furthermore, he urged that, as far as possible, matters should not be referred to bodies other than the working group of 21; to do so would merely delay the work. He therefore suggested that it would be far more productive if the working group of 21 were allowed to continue using the informal methods it had devised, in order to facilitate progress in its work.

21. The PRESIDENT said that nothing in his proposal was inconsistent with allowing the working group of 21 the latitude to decide on the way in which it wished to proceed with its negotiations.

22. He suggested that the meeting should adjourn to enable the working group of 21 to proceed with its work.

The meeting rose at 10.50 a.m.

118th meeting

Thursday, 23 August 1979, at 4.35 p.m.

President: Mr. H. S. AMERASINGHE

Organization of work for the ninth session

1. The PRESIDENT drew attention to the General Committee's recommendations on the organization of work for the ninth session in document A/CONF.62/BUR/12, as amended by document A/CONF.62/BUR/12/Add.1, together with oral amendments. He observed that the question of the programme of work for the rest of the eighth session—the first item in document A/CONF.62/BUR/12—had been overtaken by events and that the addendum applied only to the organization of work for the ninth session.

2. With regard to the eighth amendment, the representative of Brazil had suggested at the 49th meeting of the General Committee that delegations should be asked to address themselves in the general discussion during the fourth week to the substance of the existing informal composite negotiat-

ing text and to avoid making comments on questions of a general nature.

3. The new text to be added on page 5 of the English text should appear under the heading "Final stage" and not "Fourth and final stages", as in document A/CONF.62/12/Add.1. The period of ten days referred to in the third sentence included the eight days mentioned in the first sentence, plus a two-day grace-period for the submission of formal amendments. Lastly, in the final subparagraph, the words "the rules of procedure and" should be added after the words "having due regard to".

4. Mr. KRISHNADASAN (Swaziland) said that if the new text to be inserted on page 5 was to be headed "Final stage", the reference in the final subparagraph to "the subsequent stages" should be amended.