

Third United Nations Conference on the Law of the Sea

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

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A/CONF.62/L.46

Organization of work: note by the President

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

tion is that of a clause which will permit the European Economic Community to become a party to the convention.

The inclusion of the clause is necessary not only for the nine member States of the European Economic Community, but also for the other States at the Conference.

On the one hand, in view of the transfer of competences which has occurred, the member States of the Community cannot undertake engagements with respect to third States in relation to matters over which the Community has competence. It is accordingly necessary that these engagements should be undertaken by the Community and this requires that it should become a party to the future convention together with its member States.

On the other hand, the participation of the European Economic Community responds to the need to give third States which ratify the Law of the Sea convention the legal guarantee that they have before them partners capable of honouring in their regard the totality of the obligations envisaged by the convention.

With this in mind, the Community and its member States are prepared, with regard to litigation and application of the dispute settlement procedures to offer arrangements which would ensure to third States that they can in all cases take action against either a member State or the Community, or both, as the case may be.

The responsibility of the Community to apply certain provisions of the convention would leave to the internal Com-

munity law the task of regulating relations between member States on the questions concerned. One must also recognize the mutual granting of national treatment or any other special treatment within the Community; this will be the consequence of the fact that the Community would be a party to the convention.

This seems to be particularly relevant as regards fisheries, a subject over which the European Economic Community exercises competences which entail that it is exclusively entitled to negotiate, to conclude and to apply international agreements.

I shall draw particular attention to the proposal submitted by the nine member States of the Community (see FC/5 of 3 August 1979). This proposal contains a specific clause allowing the Community to become a contracting party to the future Law of the Sea convention on the same level and with the same rights and obligations as States parties within areas where powers have been given to the Community by its member States. I wish to underline, in the name of all nine member States, the great importance which they attach to the insertion of this provision among the final clauses of the convention.

I should be grateful if you could arrange for this letter to be circulated before the end of the current session as an official document of the Conference.

(Signed) N. VARESI
Head of the delegation of Italy
to the Third United Nations Conference
on the Law of the Sea

DOCUMENT A/CONF.62/99

Letter dated 31 March 1980 from the co-ordinator of the group of Latin American States to the President of the Conference

[Original: Spanish]
[1 April 1980]

I have the honour, in my capacity as Co-ordinator of the group of Latin American States, to inform you that, at the meeting held on 31 March 1980, the group unanimously reiterated its support for the candidature of Jamaica as the seat of the International Sea-bed Authority.

This decision once more confirms the well-known position of the group, communicated to you in the note dated 5 May 1978, in which you were also informed of the group's opposition, for the reasons stated, to any revision of the text that would involve a change in the provisions of article 156, paragraph 3, of the informal composite negotiating text.¹

Furthermore, the position of the group was reaffirmed in the note addressed to you on 23 April 1979² by the then co-ordinator of the group, Mr. de la Guardia, of Argentina.

I should like to request you to have this note reproduced and distributed as an official document of this Conference.

(Signed) C. LUPINACCI (Uruguay)
Co-ordinator of the group of Latin American States
to the Third United Nations Conference
on the Law of the Sea

¹Ibid., vol. VIII (United Nations publication, Sales No. E.78.V.4).

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

DOCUMENT A/CONF.62/L.46

Organization of work: note by the President

[Original: English]
[22 February 1980]

1. At its 118th plenary meeting, held on 23 August 1979, the Conference took a decision regarding the organization of work for the ninth session. In adopting a definite time-table divided into four stages, the fourth of which would be the final stage, the Conference took into consideration the need for concluding a convention during its ninth session in 1980 as, in the absence of such a programme which the Conference would accept as binding on it, there would be a very serious risk of final decisions being deferred in the belief that more time would be available.

2. As noted in paragraph 9 of the report of the General Committee¹ as submitted to and approved by the Conference at its 118th meeting the Conference concurred in the proposal that the Conference must impose a discipline on itself and agree at the expiry of each stage indicated in the time-table to proceed to the next stage without modifications that would

¹Ibid., vol. XII (United Nations publication, Sales No. E.80.V.12), document A/CONF.62/88.

disrupt the schedule and defeat the declared objective of the Conference.

3. The time-table approved by the Conference provided that, in the first stage covering the first three weeks of the ninth session, the following items would need attention: the completion of the work on the final clauses in the informal plenary with the assistance of the group of legal experts on final clauses; the conduct of the necessary consultations, involving all delegations, by the Chairmen of the three committees, assisted by the chairman of the negotiating groups and the group of legal experts on settlement of disputes relating to Part XI, within their respective spheres of competence, in order, to the extent possible, to reach compromise solutions on outstanding issues; and informal meetings by the drafting committee so that it might complete its work on informal recommendations which would have to be taken into account in the preparation of the final version of the informal composite negotiating text.

4. During the second stage, beginning at the start of the fourth week, on 24 March, there would be a formal discussion in plenary to give delegations an opportunity, before the preparation and the adoption of the revised informal composite negotiating text as a final draft convention, to place on record their position, both in regard to proposed revisions and on the entire package. That would also be the obvious time and place for any comments on the Committee reports which had been left outstanding at the close of the last session. That discussion by the plenary of proposed changes in the negotiating text before revision was effected was necessary to enable the collegium, as required by document A/CONF.62/62,* to prepare the revision.

A time-limit of 15 minutes for every speaker was set by the Conference on the understanding that delegations would be permitted to present written statements, whose contents would appear as part of the official records of the Conference, without forfeiting the right to make oral statements as well. These oral statements themselves would form part of the summary records.

It was estimated that about 12 plenary meetings of three hours each, with night meetings, would be necessary for this purpose and that the debate would be concluded in one week.

In the interests of coherent discussion designed to promote agreement, it would be necessary for delegations to refrain

from reopening issues which had already been discussed at length but had not found sufficiently wide acceptance to appear in the precise form in which they had originally been presented to merit inclusion in the negotiating text.

5. At the end of that period, which was expected to continue into the middle of the fifth week, the President and the Chairmen of the committees, with whom the Chairman of the Drafting Committee and the Rapporteur-General would be associated, would revise the informal composite negotiating text, in accordance with the provisions prescribed in paragraphs 10 and 11 of A/CONF.62/62, and read as follows:

“Any modifications or revisions to be made in the informal composite negotiating text should emerge from the negotiations themselves and should not be introduced on the initiative of any single person, whether it be the President or a Chairman of a Committee, unless presented to the plenary and found, from the widespread and substantial support prevailing in plenary, to offer a substantially improved prospect of a consensus.

“The revision of the informal composite negotiating text should be the collective responsibility of the President and the Chairmen of the main committees, acting together as a team headed by the President. The Chairman of the Drafting Committee and the Rapporteur-General should be associated with the team as the former should be fully aware of the considerations that determined any revision and the latter should, *ex officio*, be kept informed of the manner in which the Conference has proceeded at all stages.”

6. The third stage would begin in the middle of the fifth and last week of the first part of the ninth session, which would be Wednesday, 2 April, thus leaving three days for the work of the third stage. During this stage the following items of work would have to be undertaken. The plenary should meet to decide on altering the status of the revised negotiating text to that of a final Conference document that would serve as a draft convention. All formal proposals which had previously been presented would be treated as having lapsed without prejudice to the right of any State to move a fresh amendment similar to or different in substance from the one that had lapsed, when the draft text had been given the status of a final draft convention.

7. After the decision was taken to give the revised negotiating text the status of a formal Conference document, the Conference must take a decision on the question of referring it for examination to the three committees and the plenary, operating as a committee.

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

DOCUMENT A/CONF.62/L.47*

Report of the Chairman of negotiating group 7

[Original: English]
[24 March 1980]

1. At the end of the eighth session of the Conference it was decided among other things that during the first three weeks of the ninth session the chairmen of the negotiating groups “should conduct the necessary consultations within their respective spheres of competence in order, to the extent possible, to reach compromise solutions on outstanding issues”. Following this scheme of work as well as the advice of the coordinators of the main interest groups within negotiating group 7, that is, the sponsors of documents NG7/2 and NG7/10 and Add.1 respectively, the Chairman conducted consultations with the members and supporters of the groups concerned. Partly these consultations took place in separate meetings with the groups, partly they involved contacts with individual delegations belonging to either one of them. In addition also the negotiating group as a whole convened in two meetings. According to the working programme of the Conference, negotiating group 7 will conclude its work upon the issuance of the present report.

2. The discussions mentioned above focused mainly on paragraph 1 of articles 74 and 83 of the revised informal composite negotiating text (A/CONF.62/WP.10/Rev.1) with the understanding that according to a number of delegations all the central questions subject to consideration in negotiating group 7—delimitation criteria, interim measures and settlement of delimitation disputes—were finally to be settled together as parts of a “package” solution.

DELIMITATION CRITERIA

3. At the outset of the consultations with the Chairman, the members of both interest groups were asked to indicate whether they would be prepared to use as a basis of further discussions the Chair's informal proposal on delimitation criteria issued at the end of the eighth session in document NG7/44 and containing as a new element of delimitation a

*Incorporating document A/CONF.62/L.47/Corr.1, dated 1 April 1980.