

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.129

129th Plenary meeting

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)*

elapsed from the beginning of production by the Enterprise. The 10-year limit should apply to production under individual contracts, so that the Enterprise was certain of obtaining the technology used.

252. With regard to the work of negotiating group 3, there was a need for an acceptable compromise on the decision-making mechanism, to protect vital interests while avoiding obstructing the work of the Council. Further negotiations were needed on the work entrusted to negotiating group 7.

253. As for what had already been said regarding the seat of the Authority, he reserved the right of his delegation to elaborate further on the basis on which the name of Jamaica had been incorporated in the text, and to indicate why there was no basis under the rules of the Conference for any revision of the negotiating text on that issue.

254. Mr. RAHMAN (United Nations Council for Namibia) said that the Council would like to express its gratitude to the Conference for accepting it as a full member and giving it the opportunity for meaningful participation in the negotiations.

255. The Council must record its dissatisfaction with some of the proposals which had emerged. The report of the co-ordinators of the group of 21 to the First Committee revealed the erosion over the years of many substantial provisions which might once have served as a basis for compromise. His delegation was alarmed at the attempt to amend article 140 of the revised negotiating text to limit the sharing of benefits to States parties to the convention, to the exclusion of peoples who had not yet attained full independence. Such an attempt was a misinterpretation of the fundamental principle that the sea-bed was the common heritage of mankind, and that activities carried out in the Area should be for the benefit of mankind as a whole. According to Decree No. 1 for the Protection of the Natural Resources of Namibia, no animal resource, mineral, or other natural resource produced in or emanating from the territory of Namibia was to be taken to any place outside the territorial limits of Namibia by any person or body without the consent or permission of the United Nations Council for Namibia or of any person authorized to act on behalf of the Council.

256. The transfer of technology, including processing technology, was a thorny question. Legally binding assurances that the owners of technology would make it available to the Enterprise were not enough; developing countries must be able to rely on the arrangements. The provision blacklisting the owner of technology, as contained in annex II, article 5, paragraph 1 (b) of the revised negotiating text, should therefore be main-

tained. Any failure to honour obligations to transfer technology would jeopardize the viability of the Enterprise.

257. As a new international economic entity involved in seabed mining for the benefit of mankind as a whole, the Enterprise should be immune from taxation on its assets, property and revenues, as specified in annex III, article 12, paragraph 5, of the revised negotiating text. Otherwise the Enterprise risked being taxed out of existence within a short period.

258. Issues in the Second Committee with a definite bearing on the development of Namibia related, in particular, to areas of national jurisdiction and the rights of coastal States. In the view of the Council for Namibia, the outcome of the negotiations on the territorial sea, the exclusive economic zone and the continental shelf, as contained in the revised negotiating text, adequately protected the interests of Namibia as well as those of third States. The Council attached particular importance to articles 2 and 3 on the juridical status and breadth of the territorial sea, article 10 on bays, article 55 on the specific legal régime of the exclusive economic zone, article 56 on the rights, jurisdiction and duties of the coastal State in the exclusive economic zone, article 61 on conservation of living resources, article 62 on the utilization of living resources, article 76 on the definition of the continental shelf, and article 77 on the rights of the coastal State over the continental shelf. The exploitation of living and non-living resources in the areas which should be under Namibia's jurisdiction was of vital importance for its people, who alone were entitled to derive benefit from such exploitation.

259. His delegation also supported the balanced compromise which had emerged from negotiating group 4, dealing with the access of land-locked and geographically disadvantaged States to the living resources of the exclusive economic zone, as well as articles 69, 70, 71 and 72, and Part X on the right of access of land-locked States to and from the sea and freedom of transit.

260. His delegation also welcomed the progress achieved in the Third Committee in respect of the conduct of marine scientific research. It was to be hoped that the issue would be satisfactorily resolved, as consensus had already been reached on articles 242, 247, 249 and 255, and was emerging in respect of articles 246, 253, 254 and 264.

261. The Council for Namibia was willing to make every effort to reach agreement on the outstanding issues, and was confident that the second revision of the negotiating text would represent a significant step towards the ultimate adoption of a universally acceptable convention.

The meeting rose at 10.25 p.m.

129th meeting

Friday, 4 April 1980, at 11:25 a.m.

President: Mr. H. S. AMERASINGHE

The seat of the International Sea-bed Authority

1. The PRESIDENT drew attention to the draft decision contained in document A/CONF.62/L.48/Rev.1 and said that, following consultations with the various groups, it had been decided that the foot-note to article 156 of the revised informal composite negotiating text (A/CONF.62/WP.10/Rev.1) should be expanded to include the following sentence: "The Conference decided that at an appropriate time the Conference should be given an opportunity to express its preference among the candidatures of Jamaica, Malta and Fiji by means of a vote, unless the Conference decided otherwise."

2. If he heard no objection, he would take it that the Conference agreed to the addition of that sentence.

It was so decided.

Organization of future work of the Conference

3. The PRESIDENT said that following consultations with a cross-section of delegations and bearing in mind the decision which the Conference had taken to the effect that it must complete its work by the end of its ninth session he was proposing the following time-table for consideration by the Conference. First, the Drafting Committee should meet before the Conference resumed its session, possibly from 9 to 27 June 1980 in New York, to enable that Committee to complete the harmonization of the various language texts and to start the revision of the text itself. Secondly, the first two weeks of the resumed session should be devoted to the continuation of negotiations on all outstanding issues. Discussions would continue concurrently in informal meetings of the plenary Conference regarding the final and general clauses and the prepara-

tory commission. The existing negotiating groups would be discontinued and would be replaced by a more suitable negotiating structure which might take the form of a negotiating forum large enough to allow all relevant interests to be represented yet compact enough to allow for a workman-like approach to the task at hand. The third week should be devoted to a general debate dealing with the consideration of all outstanding issues covered by the Convention and the special revisions made. Statements should be limited to 10 minutes, as has been the case at the current session, and delegations should have the opportunity to supplement their oral remarks with written statements which would be part of the official records. During the fourth week the collegium should undertake the third revision of the negotiating text and at the end of that week the Conference should decide on the status to be accorded to the revised text. He suggested that the third revision of the text should be given the status of a basic proposal, which was the term that had been used in the rules of procedure of the United Nations Conference on the Law of Treaties. At that point, delegations might submit formal amendments to the text. All amendments should be submitted by the end of the second day of the fifth week. Finally, as the Conference could not be certain of completing its work in the allotted time, provision should be made for a one-week extension of the Conference, either at the start or at the end of that session. If the Conference agreed, a request would be submitted to the Committee on Conferences and arrangements would be made in consultation with the Secretary-General.

4. Mr. CALERO RODRIGUES (Brazil) said that it had been his understanding that the time-limit on statements in the general debate would be 15 minutes, so that delegations could state their views both on the amendments to the text and on the text as a whole. As to the question of an extension, in his view no decision could be taken until the end of the next session, when it could be seen whether such an extension was, in fact, necessary.

5. The PRESIDENT said that, if he heard no objection, he would take it that the Conference wished the time-limit on statements on the general debate at the next resumed session to be 15 minutes.

It was so decided.

6. Mr. ZEGERS (Chile) said he agreed with the time-table which had been outlined. It was his understanding that existing negotiating structures would remain until the Conference moved on to the next stage. It could not move to the next stage unless the collegium revised the critical outstanding issues.

7. The PRESIDENT pointed out that prolonging the existing negotiating structure might simply prolong negotiations and it was essential that the Conference should waste no time at the resumed session discussing its negotiating structure. However, no decision on the matter would be taken until the session resumed at Geneva.

8. Replying to a question from Mr. IMAM (Kuwait), the PRESIDENT said that two days should be ample for presentation of formal amendments since delegations would have an idea during the general debate of the kind of amendments they might wish to make and could take steps to consult their Governments before the third revision was presented to the Conference.

9. Mr. MI-ENDAMNE (Gabon) repeated a request that he had made the previous year, asking 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 to report to the Conference on the situation with regard to the transfer of technology and to invite representatives of the General Agreement on Tariffs and Trade and the United Nations Conference on Trade and Development to report to the Conference on the progress of negotiations regarding raw materials.

10. Mr. ZULETA (Special Representative of the Secretary-General) observed that the specialized agencies were invited to send representatives to all sessions of the Conference and that several of them had already made important contributions to the work of the First Committee. He would, however, remind the organizations that delegations wished them to continue providing their valuable advice.

11. After a procedural discussion concerning the possible extension of the resumed session by one week, the PRESIDENT announced that the Group of 77 had requested a suspension of the meeting in order that it might arrive at an agreed position on the matter.

The meeting was suspended at 12.15 p.m. and resumed at 12.50 p.m.

12. Mr. WAPENYI (Uganda), speaking as the Chairman of the Group of 77, said that the Group favoured a five-week resumed session of the Conference with no extension.

13. The PRESIDENT said that, if he heard no objection, he would take it that the Conference agreed to the programme of work he had suggested, as amended by the representative of Brazil.

It was so decided.

Manpower requirements of the Authority and related training needs

14. Mr. ENGO (United Republic of Cameroon), speaking as the Chairman of the First Committee, pointed out that the Secretary-General had been asked to report on the progress made regarding the programme to train staff from developing countries for service in the sea-bed Authority; that report should be issued as soon as possible.

15. Mr. ZULETA (Special Representative of the Secretary-General) said that some progress had been made in the programme referred to; the secretariat, feeling that it must have guidance from Governments in so important a task, had sent notes verbales asking for comments from the States represented in the Conference, but not all Governments had yet replied. A preliminary report would be issued when all replies had been received.

16. Mr. ENGO (United Republic of Cameroon) suggested that it might be useful to set a deadline for the submission of comments by Governments, with a view to producing a definitive report by the time the session was resumed at Geneva.

Report of the Credentials Committee

17. The PRESIDENT said he took it that the Conference agreed to adopt the report of the Credentials Committee contained in document A/CONF.62/97 and Corr.1.

It was so decided.

Closure of the first part of the session

18. The PRESIDENT announced that the Conference had concluded its work for the first part of the ninth session.

The meeting rose at 1.05 p.m.