

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/C.1/SR.10

Summary records of meetings of the First Committee 10th meeting

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume II (Summary Records of Meetings of the First, Second and Third Committees, Second Session)*

tion would leave that type of question to be dealt with by the developing countries—for example, in the Group of 77—but in that case, United States' interests in the sea-bed would be directly affected by the answer. In view of the extreme importance of the subject, he asked whether the Secretariat could provide, before the next meeting of the Committee, an idea of the cost to developing consumer countries of maintaining or raising the prices of nickel, copper, cobalt and manganese.

53. He would also like to know if an analysis had been made of the extent to which preventive or compensatory measures would benefit the developed rather than the developing countries. Would it be possible to help developing countries selectively—for example Zaire—by controlling production, without producing financial gain for the developed countries? He would like a precise and careful answer to that question.

54. Another question was to what extent revenues available for sharing would be lost or diminished by production control or compensation. It would also be necessary to consider, for example, the extent to which new equipment and technology needed to deal with the new economic zones being created, such as drilling platforms and drill pipes, would be made from metals produced from manganese nodules. How much was the

international community interested in ensuring cheap production costs and low prices for finished products?

55. He had many more questions to ask in the seminar and in the Committees. He would not ask for immediate answers but hoped that the Secretariat would provide them before decisions were made and before delegations adopted positions. Such information could ensure that any decisions taken were in the interests of the whole international community and not of a few land-based producers.

56. The CHAIRMAN remarked that the seminar would be different from the current meeting, in that there would be several experts present to answer questions. He thought that the United States representative's questions had perhaps not been asked purely for purposes of information and it would not be useful to insist on answers at the present meeting. The Secretariat would, however, provide answers for the record, as requested.

57. The purpose of the present debate was to obtain clarification about the Secretary-General's views. He would ensure that there would be ample opportunity for full debate in the Committee later.

The meeting rose at 1.05 p.m.

10th meeting

Tuesday, 30 July 1974, at 3.15 p.m.

Chairman: Mr. P. B. ENGO (United Republic of Cameroon).

Economic implications of sea-bed mineral development (continued)

1. Mr. D'STEFANO PISSANI (Cuba) expressed concern over the possibility of a short-run reduction in the price of cobalt, which would affect Cuba, a country that produced cobalt. If cobalt was sold at a lower price, it could be used as a substitute for other metals; thus, cobalt consumption might increase at the expense of that of other metals because it was offered at more competitive prices. He requested further information on the quantitative and qualitative consequences of the trend towards the production of substitutes for mineral and agricultural products from the developing countries.

2. Mr. BRANCO (Secretariat) said that using substitutes for raw materials was the result of technological progress. It was true that cobalt could be used as a substitute for nickel, for instance, so that while the price of cobalt might fall, market demand for it would rise. It was, however, more difficult to conceive of substitutes for other raw materials.

3. Mr. HARAN (Israel) asked why there was a discrepancy between the forecasts made by the representative of the United Nations Conference on Trade and Development (UNCTAD) at the 6th meeting and those made by the representative of the Secretary-General, on the expected shortfall in the income of developing countries. He also asked if any estimate had been made or would be made of possible savings to developing countries from a reduction in prices which would enable them to increase their exports and make their products cheaper. In connexion with the possible allocation of the resources of extended economic zones to coastal States, he asked if any estimate had been made of the possible increase in income of those coastal States as a result of their jurisdiction over extensive marine resources.

4. Mr. BRANCO (Secretariat) said that the Secretariat had not tried to quantify the shortfall in the revenues of developing countries because there were still too many imponderables.

Only UNCTAD had made econometric studies and produced some figures. It was very difficult to project what would happen in the next five or ten years and given the many unknowns about the nodule industry, no precise figures could be given. The Secretary-General and UNCTAD had, however, agreed on the general trend. The expected shortfall in the export earnings of developing countries consisted of two elements; what developing countries would lose as a result of a fall in prices; and what they would forgo because prices would not increase as they would have in the absence of sea-bed mining. Developing countries might indeed import some products that could be made from minerals produced from nodules, but that would represent a small part of their imports. Replying to the last question asked by the representative of Israel, he said that the Secretary-General had prepared a report in 1973 on the economic significance, in terms of sea-bed mineral resources of the various limits proposed for national jurisdiction.¹ If resources falling under national jurisdiction were exploited, the income of the coastal States concerned would increase. The Secretariat had not, however, carried out any detailed study on the estimated increase in income.

5. Replying to questions asked by the United States representative at the previous meeting, he said that he would reply only in general terms, as quantifying the answers would require further study, time and research. The answer to the first question, i.e., whether higher prices for raw materials produced from nodules would mean higher prices for finished products imported by developing countries, was a qualified yes. The report of the Secretary-General (A/CONF.62/25) dealt with the likely impact of only the first decade of nodule mining. During that period only the prices of cobalt and manganese were likely to be affected. Cobalt was used in sophisticated industries for products primarily used by the developed countries. It was, however, only a small component of the total cost

¹ Document A/AC.138/87 and Corr.1.

of the products in which it was used, and increases in the price of cobalt would have little noticeable effect. The same applied to manganese, most of which was used in the steel industry. Developing countries were now expanding their steel industries, but as manganese accounted for only a very small part of the total cost of steel production, any increase in the price would not have much effect. The cost of drilling equipment would likewise be affected only minimally by rises in the prices of cobalt or manganese. If there were limitations on sea-bed exploitation, prices could rise, but it was very difficult, if not impossible, to quantify possible increases. It was important to look beyond the first decade to the time when tight control, or lack of any control, over production would raise the prices of nickel and copper; both those metals, particularly copper, were important in world trade, and developing countries spent substantial amounts on importing them. Quantification in that area was not, however, possible at the present time.

6. Turning to the question asked by the United States representative concerning the extent to which compensatory and preventive measures would benefit the developed countries, he said he assumed that the United States representative did not contemplate the possibility that compensatory measures would be called for in the case of developed countries. The preventive measure envisaged was regulation of the rate of resource exploitation in order to prevent pressures on prices for certain minerals. That would benefit some industrialized countries. In the case of cobalt, a quarter of the world's supply came from industrialized countries—Canada, the Soviet Union, Finland and Australia—but the amounts were small and the benefit of preventive measures to industrialized producing countries would be negligible. In the case of manganese, however, the developed countries were the major producers. The Soviet Union produced almost half of the world's supply but used most of it domestically, exporting only a little to Eastern and Western Europe. Australia and South Africa were important exporters of manganese, however, and preventive measures would benefit them. Canada, together with France and the Soviet Union, accounted for about 80 per cent of world nickel production, and they would also benefit from preventive measures. Changes in prices would not affect the foreign trade of countries which were major producers and also consumers; only net exporters and importers would be affected by rises or falls in prices.

7. On the question of a possible trade-off between consumers and producers, he said that if prices rose the gain of producing developing countries would be greater than the loss to consuming developing countries. Moreover, while the consuming developing countries might incur some losses as a result of high prices, other compensatory flows in the world economy might help to restore their trade balance.

8. On the question of how the revenues of the International Sea-Bed Authority might be affected by high prices, he said that if the International Authority exercised very strict control over sea-bed mining, production might be low and its revenues correspondingly small. Revenues available for distribution would also be affected if compensation had to be paid to developing countries, but the representative of the Secretary-General had spoken of the possibility of paying compensation to developing countries from funds other than those of the Sea-Bed Authority.

9. Mr. DE SOTO (Peru), noting that much of the technological information required for sea-bed mining was secret and belonged to only a few companies and also that the prices of certain minerals might fall, requested information on how technological progress might affect developing countries that were land producers of minerals obtainable from nodules.

10. He also requested fuller information on the seminar to be held by the Committee.

11. The CHAIRMAN said that the seminar was being organized informally by the Bureau to enable members of the Committee to hear experts give their objective views on the situation. The seminar would be followed by a full formal discussion of the question by the Committee. He requested the chairmen of all geographical groups to co-operate with the Chair by keeping their groups fully informed about any informal meetings.

12. Mr. BRANCO (Secretariat), replying to the representative of Peru's question about the impact of technological progress on developing countries in respect of the relative costs of sea-bed and land mining, said that technological progress would most probably reduce the cost of sea-bed mining, and eventually nodule exploitation might be economically feasible even if only nickel and copper were recovered. Precise figures could not, however, be given at present, and it was therefore difficult to formulate measures that would protect the interests of all concerned. It should be borne in mind that one element of cost was the fiscal charge levied on producers; if the cost of producing metals from the sea-bed was low and if the International Sea-Bed Authority had a share in the net revenues of the operation or levied a fiscal charge, it could even out the difference in costs between land and sea-bed production.

13. Mr. VARADAN (India) said that the crux of the matter was demand projection, which was based on purchasing power and not on need. The *per capita* consumption was very different in developing countries from what it was in developed countries, where the demand was greater. If the Conference was to create a law of the sea that would stand the test of time, it must abandon the inequalities of the old system and stimulate demand. He suggested that the resources of the Sea-Bed Authority should be used to stimulate demand, and he asked for Mr. Branco's views on stimulating demand, as distinct from anticipating demand.

14. Mr. BRANCO (Secretariat) said that the question asked by the representative of India went beyond economic analysis and was related to the political question of income distribution. If the international community decided that one of the objectives of the International Sea-Bed Authority should be to stimulate demand in developing countries, that could be done by making products available at low cost.

15. Mr. WEEDA (Netherlands) raised the question of the impact on the world market of new developments in land mining, such as exploration, new technology and the recycling of metals. He also raised the question of whether the mineral resources would be sufficient to keep up with the growth in demand.

16. Mr. BRANCO (Secretariat) said that, although the report of the Secretary-General dealt exclusively with sea-bed mining, new technological innovations in land mining, the handling of materials and metallurgical processes would also affect the world market. Although new sources of metal were being found on land, geologists maintained that supply would not keep up with the growth in demand for certain metals; the situation was different for each metal. On the question of recycling, he said that if it became more economical, there would be a decline in the demand for raw materials and newly mined minerals.

17. Mr. FLORIN (Federal Republic of Germany) asked whether anything could be done to remedy the unemployment likely to result from a decline in the land-based mining of minerals as a result of the exploitation of the sea-bed, for instance, by locating the necessary processing industry and land-based storage facilities for those minerals in the developing countries which might suffer economically from the results of deep-sea mining.

18. Mr. BRANCO (Secretariat) replied that the matter was one aspect of the fundamental problem of benefit-sharing. Although no study had yet been made of that particular aspect,

mining activities in general were far more labour-intensive than processing industries. Unfortunately, the two developing countries likely to be most affected by deep-sea mining of cobalt and manganese, namely Zaire and Gabon respectively, might not be ideally situated geographically for processing and storing minerals which would probably be mined in the Pacific Ocean. The matter was, however, one for decision by the international community as a whole and by the future Authority.

19. Mr. CHAMBERLAIN (United Kingdom) said that some of the questions he had wished to raise had already been asked by other delegations and that others appeared more suited to the seminar and the subsequent discussion. He wished, however, to raise two general points. The first was what in general terms were the over-all advantages to the developing countries of obtaining minerals from sea-bed sources and whether those minerals would not be of particular importance in the steel and power industries, which were of special interest to the developing countries both currently and in the future. The second was whether, even if no new sources of metals were exploited from the sea-bed, increased demand by the 1990s would not have led to prospecting for additional land-based sources, which would also call for the compensatory and regulatory approach now being discussed in connexion with minerals obtained from the sea-bed.

20. Mr. BRANCO (Secretariat) said that, in fact, developing countries were very small consumers of the two minerals which would be most affected by sea-bed mining in the near future—cobalt and manganese—although they could be more significantly affected by reductions in prices in the longer term, if massive expansion of nodule mining were also to affect prices of nickel and copper. When speaking of benefit in the economic sense, the net benefit to all developing countries must be considered and the benefit of lower prices for importer countries must be offset against the loss suffered by producers which might be substantially greater. The minerals specifically affected were certainly important in the steel industry, the energy sector and the chemical industry, all of which were of great interest to developing countries.

21. In reply to the United Kingdom representative's second question, he said that the estimated increase in demand would certainly make new sources of supply essential, even if they were not obtained from the sea-bed.

22. Mr. ADENIJI (Nigeria) said that the question he had intended to ask had been substantially covered by the point raised by the representative of the Federal Republic of Germany. However, since the representative of the Secretariat had said that no detailed study had been made of the possibility of compensating countries likely to be adversely affected by the economic consequences of deep-sea mining through the creation of job opportunities in the processing and other related sectors in those countries, he wondered if it would be possible for Mr. Branco to enlarge on those aspects at the seminar.

23. Mr. MHLANGA (Zambia) said that his country, whose economic development was largely dependent on land-based mineral production and marketing, was naturally very concerned at the possible adverse effects of the mining of minerals in the sea-bed beyond the limits of national jurisdiction. If the compensatory measures proposed to obviate the adverse effects were to succeed, the international area must be economically viable. Did the representative of the Secretariat not consider that economic viability would be impossible, if the wider limits of the zone of national jurisdiction proposed both to the sea-bed Committee and to the Conference itself were to be adopted?

24. Mr. BRANCO (Secretariat) replied that if the 200-mile limit was adopted, some natural resources might be exploited within the area of national jurisdiction and therefore escape any control which the International Authority might be empowered to apply. He understood, however, that very few of

the best quality minerals lay within that area. The powers to be given to the Authority and the extent of its control must however depend on the decision taken by the Second Committee on the breadth of the economic zone.

25. Mr. SEPULVEDA (Mexico) said that there were two prerequisites for the exploration of the sea-bed and the resources of that area, namely capital and technology. Much had been said about the magnitude of the financial resources needed but his delegation was preoccupied by the concentration of the required technology in a very limited number of countries. International experience had not been encouraging with regard to the transfer of technology from developed to developing countries, or with regard to the former's willingness to do so. He would therefore like an evaluation of the general channels through which technology might be transferred to the International Authority and an indication of what machinery could be set up to ensure that that was done.

26. Mr. BRANCO (Secretariat) reminded the Committee that the subject was under discussion in the Third Committee. It was a matter of understandable concern that the highly sophisticated technology necessary for exploiting the resources of the sea-bed was in the hands of a very limited group of countries and often even of individual firms. The most effective way to ensure the transfer of that technology to the developing and less advanced countries was through joint ventures organized either directly in association with the technologically advanced countries or by the International Authority. Transfer of technology was never a rapid process and even firms in the industrialized countries had difficulty in keeping up with the leaders in the field.

27. Mr. PINTO (Sri Lanka) said that that was a most difficult question and might give rise to serious political problems if the developing countries that were metal-producers and the metal-consuming countries did not perceive their identity of interests. Solidarity among developing countries was more necessary than ever at the present time.

28. He wished to consider the potential end-product of the Committee's work, namely, the devices to be incorporated in the future Authority whereby it could be notified of a threat to a metal-producing member and take the necessary protective measures.

29. That question was dealt with to some extent in the Secretary-General's report. His delegation had great sympathy with the countries that found themselves in such a dilemma and would do all it could to support an equitable system for protecting the interests of other developing countries; but that would be no easy task.

30. If a metal-producing country that was a member of the Authority became aware of a threatened drop in prices as a result of surplus production, it might report the matter urgently to the appropriate organ of the Authority, which might be a technical organ such as a planning council or an economic commission. That organ would then study the report with a view to recommending appropriate action, perhaps to the plenary organ of the Authority.

31. One immediate problem would be how to assess the threat to prices. Assuming that a country had determined that there was a threat to the price level of the metal it produced as a result of excess supply, two main questions had to be answered. First, was a decline from the current price level to be recognized as a threat, or was a fictitious price level—to be called the "reasonable price"—to be established? If the "reasonable price" was to be the operative notion, how was that price to be arrived at?

32. Secondly, article 10 of the draft articles prepared by the unofficial working group (A/CONF.62/C.1/L.3)—a text with which his delegation had considerable sympathy—stated in connexion with the Authority's price-regulating powers: "The mineral resources of the sea shall be considered as being com-

plementary to resources produced from land and off-shore areas." If that was so, would action first be taken by regulating the price of the metal produced from the sea-bed? Furthermore, could adequate protection—meaning the maintenance of "reasonable prices" for the metal—be provided by taking account of production from all sources?

33. Mr. BRANCO (Secretariat) explained that the decline in prices might have many causes. A short-term decline might be due to an economic recession or other factors affecting the purchasing power of the importing countries. There might also be a long-term decline in prices due to technological progress or to pressure on supply from the discovery of new sources of the mineral concerned. Failure of prices to increase as expected might also be considered a threat to remunerative price levels. All those factors must be taken into account when the Authority decided that the price level was threatened.

34. With regard to the second question, the action to be taken would depend on the nature of the threat to the price level. Short-term imbalances might be handled by reduction in the total supply of minerals from both land-based and sea-based sources, with the agreement of all the parties concerned, or through the use of buffer stocks, whereas a long-term decline in prices might call for the use of the Authority's compensatory powers. In any case, the Authority must be empowered to take the necessary action through participation in international commodity agreements and to share in the financing of buffer stocks. Other regulatory measures could be taken outside the Authority, for instance through agreement between major importing countries to provide some form of compensation for the loss in export earnings of producing countries due to a decline in prices.

35. Mr. TURQUET DE BEAUREGARD (France) said that it was unlikely that supply from land-based mineral resources would be able to keep up with the increasing demand. It would therefore be unwise to place too many restrictions on the exploitation of resources from the sea-bed. Did the representative of the Secretariat not agree that such exploitation would be progressive and at first adversely affect only marginal exploitation, with a barely perceptible influence on prices? He would also like further details on ways of dealing with price fluctuations other than by compensatory and regulatory methods.

36. Mr. BRANCO (Secretariat) confirmed that the exploitation of the sea-bed resources would be a cumulative process depending on the availability of technology and the condition of the market. As stated in section II of the Secretary-General's report, little reliable data was available since nodule mining technology was still in the developmental stage. The possibility suggested by the French representative that exploitation of sea-bed resources would at first merely lead to a decline in marginal production without a perceptible drop in prices, depended on the nature of the markets for the minerals concerned. For instance, cobalt, which was likely to be the first mineral affected, was a very special market, controlled by the major producer, Zaire, which had so far been able to adjust the supply to avoid major fluctuations in short-run market prices. Should the situation be changed by production from the sea-bed, Zaire might find it advantageous to maintain its share of the market. The same could be said of other producers, especially since cobalt production was a by-product of copper or nickel mining. The situation with regard to manganese, the next mineral most likely to be affected, was however very different since the production costs of the different producers varied

greatly. In that case, producers with high costs might be driven out of the export business. Under a free market economy, it was however more likely that there would be a decline in prices before there was a halt in marginal production.

37. With regard to the French representative's second question, concerning price regulation, he said that there were obvious methods, such as long-term planning and compensatory measures. In addition there were other alternatives, some of which were mentioned in the Secretary-General's report. It would be possible, for instance, to levy a duty on the imports into industrialized countries of minerals produced by sea-bed mining and to use the revenue from that levy for the benefit of the developing countries. Compensatory payments could also be made from funds obtained from other than sea-bed sources.

38. Mr. LUGOE (United Republic of Tanzania) said that with so many complex problems to be solved it was obvious that a very strong Authority would be required. There was no organization with sufficient power to take the necessary action at the present time. However, it was not enough merely to establish the Authority; he would like to know the type and extent of the control it would exercise and also what methods it would employ.

39. Mr. BRANCO (Secretariat) said that the Tanzanian representative's question related to the statement made by the Special Representative of the Secretary-General at the previous meeting. As the Special Representative had indicated, the most complex problems with which the Authority would have to deal could only be visualized in broad outline at the present time, and it was not yet possible to say with precision what means it would be most appropriate to employ to deal with them. However, one thing was already clear: the Authority must be sufficiently powerful to take whatever steps were required for their solution.

40. As to the type and extent of the controls and how they were to be exercised, it was necessary to consider how the pressures on prices from sea-bed mining might arise. Some might be due to long-term imbalances in supply and demand, owing to the great importance of nodule mining for such minerals as cobalt and manganese. On the other hand, it might be necessary for the authority to act to reduce the impact of short-term price fluctuations. In the latter case, price regulation exclusively through the action of the Sea-Bed Authority might create as many problems as it solved. For instance, if the Authority was required to compensate the developing countries for short-term fluctuations or declines in the prices of the metals they produced, all its funds might be absorbed by that alone in a very short period of time. The Authority would therefore have to act in concert with all producers concerned, and take such steps as the creation of buffer stocks or any of the other measures mentioned in the Secretary-General's report.

41. As had already been suggested, the Authority might undertake the long-term planning of nodule mining and lay down a schedule for new operations perhaps based on the complementary approach. But owing to the joint-product nature of the industry, with production of the four major minerals in proportions quite different from existing world demand, it would not be possible to guarantee price stability for all minerals. Since the developing countries were producers of all of those minerals, it was difficult to know where the international community should draw the line.

The meeting rose at 5.35 p.m.