

Third United Nations Conference on the Law of the Sea

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A/CONF.62/C.1/SR.23

23rd meeting of the First Committee

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

judicial review at the instance of aggrieved parties, although disputes should be settled by negotiation and conciliation whenever possible. His delegation favoured the establishment of a law of the sea tribunal with jurisdiction over all disputes arising out of or in connexion with the future convention. Should the establishment of such a tribunal prove impossible, it would support a tribunal of more limited competence to deal with disputes relating to the activities of the Authority; it might be a standing body in the sense that its members would be elected for a fixed period but would not require the full-time commitment of its members. Litigation, after all, was a last resort. His delegation would not oppose provision for arbitration as an alternative to judicial settlement of disputes, provided it was a fully effective system and could not be frustrated by the non-co-operation of one party. His delegation saw the institutional and the substantive sides of the proposals relating to the deep sea-bed as fully interlocking. The one could not be effectively established without the other.

42. Mr. KOPAL (Czechoslovakia), speaking on behalf of the group of land-locked and geographically disadvantaged States, said that since the group had not expressed its views on earlier proposals concerning revenue distribution which had been submitted to the sea-bed Committee, it had deemed it proper to submit a draft article on that issue.

43. For the purposes of the system of revenue distribution proposed in document A/CONF.62/C.1/L.13, three groups of States were considered: all developing countries, the land-locked and geographically disadvantaged States, and all States. The formula proposed for revenue distribution among those groups favoured countries with large popula-

tions and low *per capita* income. Within certain limits, some countries might accumulate shares under one or more of the categories listed in paragraph 1. It was also proposed that the International Authority would distribute no net revenue until its funds had reached a specified level.

44. If it was to serve the cause of justice, the new law of the sea must contain provisions granting privileged treatment to certain categories of States. Many objective studies had confirmed that most sea-bed resources, and certainly those which were most accessible, were concentrated in areas adjacent to the coasts of States. Even if land-locked and geographically disadvantaged States were granted participation rights in those areas, they would be at a disadvantage in the exercise of such rights because of their unfavourable geographical position. They should therefore be given some compensating advantage in the area beyond the limits of national jurisdiction.

45. Mr. LEVY (Secretary of the Committee) said that at the 20th meeting the representative of Singapore had requested that the Secretariat should provide information on various economic and technical aspects of sea-bed development and on important factors affecting the financial return from nodule mining. In view of the complexity of the issues involved, the Secretariat was giving careful consideration to the written proposal submitted by the representative of Singapore. The Special Representative of the Secretary-General would report to the Committee on the matter at the following meeting.

The meeting rose at 4.45 p.m.

23rd meeting

Wednesday, 7 May 1975, at 3.45 p.m.

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

International régime for the sea-bed and the ocean floor beyond the limits of national jurisdiction (concluded)

1. Mr. PINTO (Sri Lanka) Chairman of the Working Group, reminded members that when he had reported to the Committee at the 20th meeting, he had outlined the provisions contained in the document entitled "Basic conditions of exploration and exploitation" (CP/Cab.12). He had also mentioned on that occasion that there had been differences of opinion within the Working Group due to the existence of different economic and social systems.

2. According to one group of States, while the Authority should have broad discretion as to how to exploit one portion of the area, a specified part of the area should be subject to a separate régime in which States members of the Authority, which would be treated on a basis of absolute equality, might have a certain autonomy subject to over-all supervision by the Authority. During the discussion, some delegations had proposed that that principle should be taken more strictly into account, while others had questioned the necessity of incorporating it in the document.

3. According to another group of States, there should be a device whereby any applicant for a contract for exploitation activities would be required to propose to the Authority a choice of two areas of equivalent commercial

interest for the conduct of operations under a contract. On concluding a contract with the applicant with respect to one of those areas, the Authority would have the right to retain all data concerning the second area, with a view to subsequently exploiting it as it saw fit. That two-area system had been viewed as a part of an over-all agreement which would ensure continued exploitation, as well as the conclusion of contracts with qualified applicants on a non-discriminatory basis.

4. In the light of the discussion which had been held in the Working Group and of the results obtained during informal consultations, he thought it would be advisable to revise document CP/Cab.12 so that it would reflect the views expressed by all delegations. The revised version would not contain any reference to the differences of opinion he had mentioned. On the other hand, States which had sought to defend certain positions and certain interests by submitting the proposals in question would be able to request the inclusion in the text of other elements intended to serve the same or similar purposes. It would be necessary to determine whether the elements now contained in the text were adequate, or whether they should be supplemented or amended, and whether they could be the subject of a general agreement. Furthermore, among the new elements to be included in the revised version, there was a certain number of provisions concerning direct exploitation by the

Authority—a question which the Working Group had not yet considered in detail.

5. He wished to emphasize that the revised version of the document, which would be considered at forthcoming meetings, could in no sense be regarded as a negotiated or compromise text; no one would be bound by it. The sole purpose of the document was to indicate the important elements which had been brought out during the discussions so far, and to serve as a basis for future negotiations.

6. The Working Group's mandate was to consider articles 1 to 21, on the principles of the international régime, and in particular article 9, as well as the basic conditions of exploration and exploitation. At Caracas, the Working Group had concentrated its efforts on the consideration of articles 1 to 21, as reflected in document A/CONF.62/C.1/L.3.¹ It now had to complete its work on the basic conditions, before resuming consideration of articles 1 to 21. With regard to the single text prepared at the request of the President of the Conference—which would be circulated in the near future—he thought that the First Committee might perhaps like to consider adopting the corresponding articles in that text as a basis for discussing the substantive questions previously covered by articles 1 to 21 in document A/CONF.62/C.1/L.3.

7. In conclusion, he thanked all the members of the Secretariat, and particularly the secretary of the Working Group, Mr. Roy Lee, who had given him such devoted and competent assistance in carrying out his task.

Statement on the work of the Committee

8. Mr. BAILEY (Rapporteur) introduced the statement on the work of the First Committee (A/CONF.62/C.1/L.15) and asked the Committee to take note of it as a reference document.

9. He indicated that the following phrase should be added at the end of the first sentence in paragraph 14: "that was designed to facilitate the process of future negotiation".

10. Lastly, the second sentence in paragraph 15 should be deleted and replaced by the following sentence: "It is anticipated that the negotiating text presented by the Chairman will represent an essential element in negotiations in the Committee at the next session".

11. Miss MARTIN-SANE (France), proposed that the words "It is anticipated", in the amended sentence, should be replaced by the words "It is to be hoped". Not having seen the proposed text, her delegation considered that the reception which would be given to that document could not be prejudged in the report.

12. Mr. THOMPSON-FLORES (Brazil), referring to the second sentence in paragraph 10, which dealt with a request made by the representative of Singapore, explained that it was not a question of obtaining certain technical information on nodule mining, but of asking the Secretariat to make a study of the method of exploiting nodules.

13. Mr. KOH (Singapore), replying to a question asked by the Chairman, said that he had requested, first, technical information on nodule mining and, secondly, that the Secretariat should prepare a study on the method of exploiting nodules.

14. Mr. BAILEY (Rapporteur), said that to meet the wish of the representative of Singapore, the words "and studies" would be added after the words "technical information" in paragraph 10. In addition, he saw no objection to the use of the expression "It is to be hoped", requested by the representative of France, in the amended second sentence of paragraph 15, which he had read out.

15. Mr. ALLOUANE (Algeria), referring to paragraph 14, asked whether the expression "single negotiating text" had been accepted in plenary meeting; if not, it might perhaps be necessary to delete the word "negotiating".

16. The CHAIRMAN referred the representative of Algeria to the summary record of the 54th plenary meeting of the Conference, in which a "single negotiating text" was certainly mentioned.

17. He suggested that the Committee should take note of document A/CONF.62/C.1/L.15, drafted by the Rapporteur.

It was so decided.

18. Mr. ZULETA (Special Representative of the Secretary-General) said that the Secretariat had carefully examined the different aspects of the request by the representative of Singapore for information and studies on various economic and technical aspects of sea-bed mineral development. In view of the complicated and delicate nature of the question, the Secretariat must observe the strictest neutrality. It would do everything necessary to assemble the relevant data, arrange them rationally, analyse them and draw conclusions. Moreover, the Secretariat was already preparing reference files on all the questions before the Conference; it would therefore use the same method to assemble and analyse the documentation which had just been requested, so that it would be available to all delegations.

19. The studies and information requested by the representative of Singapore would all be available in their entirety for the next session of the Conference. In the meantime, delegations could consult the reference files which were being prepared at United Nations Headquarters in New York.

20. Mr. TUERK (Austria) said he was aware that it might be difficult to reply to all the questions raised by the request of the representative of Singapore; nevertheless, the study to be made would provide a useful basis for the Committee's future work.

21. He wished to draw the Committee's attention to a note introduced by the delegation of Czechoslovakia (A/CONF.62/C.1/L.13) on behalf of the group of landlocked and geographically disadvantaged States, concerning the system of distribution of the revenue collected by the International Authority from the exploitation of the international sea-bed area. He would not, at that stage, go into the details of the note, which would have to be discussed further in due course. In order to facilitate that discussion, it would be useful if the Secretariat were to submit a statement of the possible practical effects of the note. In particular, a short calculation should be made indicating the percentage of revenue to which each country would be entitled and the revenue in absolute figures which each country would receive assuming, for example, that the International Authority would have \$1,000 million net to distribute.

¹ See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. III (United Nations publication, Sales No. E.75.V.5).

22. Mr. ZULETA (Special Representative of the Secretary-General) said that the Secretariat would willingly calculate the practical implications of the Czechoslovak proposal. If he had understood aright, what was required was a simple arithmetical calculation based on hypothetical figures and not entailing any judgement on the part of the Secretariat. The calculations would appear in their proper place in the reference files already mentioned, which would be available to delegations in New York.

Concluding statement by the Chairman

23. The CHAIRMAN said he was pleased with the serious and co-operative spirit shown by the Committee and its Working Group, and felt satisfaction regarding the informal and private consultations which had taken place at the regional and subregional level. Despite the lack of plenary meetings proper, the Committee had not been inactive, as was proved by the intensity and number of the discussions which had taken place in small groups. It was still too soon to evaluate fully the progress made at the session. What could be said was that at the next session it would be necessary to consider new procedures for improving the negotiating process. That session should really be the last before the signing session at Caracas.

24. At the current session delegations had been able to carry on a thorough study of the structure, powers and functions of the international machinery for the exploitation of the sea-bed, which had been started at previous sessions. The Committee could therefore be considered to have completed all the work assigned to it; it now remained to negotiate on the basis of what had been accomplished.

25. The President of the Conference, in plenary meeting, had asked him, as Chairman of the Committee, to draft a single text which would serve as a basis for negotiations. That was a heavy responsibility which he hoped to be able to discharge thanks to the experience he had acquired when attending conferences and meetings on the exploitation of the sea-bed and with the help of the comments delegations had made to him. He wished to assure delegations that he

had noted all the proposals, suggestions and opinions which had been put forward; he would take them into account impartially and faithfully, and hoped that participants could trust him to do so.

26. It had been brought to his attention that texts had been circulated with allegations that they emanated from him or from authorized sources. He wished to emphasize that he disowned any document that had not been submitted to him direct during the previous week, since he had announced at the preceding meeting that he would devote that week to receiving delegations and representatives wishing to make comments or suggestions. The text he was about to draft would accordingly reflect only views expressed in the Committee or its Working Group, and during the consultations held the previous week. He alone would be responsible for that text. He had no illusions about its universality. He could not hope to solve, in a few days, problems which had been so ardently debated for so many years. He only hoped that the single text would indicate the possible areas of understanding on which a consensus could be reached. It would not be a negotiated or semi-negotiated text, but a document which committed no one, not even its author. All he asked of delegations was that they should study and reflect on it between the sessions, so that it could be usefully discussed at the next session.

27. He warmly thanked the members of the Committee for their spirit of co-operation, and all those who had helped him in his task, particularly the members of the General Committee and the Working Group and all members of the Secretariat.

28. He hoped that when the Committee met again it would be in a geographical and moral climate conducive to fruitful negotiations.

He then announced that the First Committee had concluded its work for the third session of the Conference.

The meeting rose at 4.40 p.m.