

# **Third United Nations Conference on the Law of the Sea**

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-

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## **33<sup>rd</sup> meeting of the General Committee**

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the Geneva Conference of 1958. With respect to the method of work to be used, everyone knew those areas in which agreement still had to be reached, and political solutions must be found. The task of finding such solutions could best be carried out under the leadership of the President. It was important that the general public should not have the impression that the composite text had been drafted by the Conference.

37. Mr. ZEGERS (Chile) said that his delegation fully supported all the proposals submitted by the President. The Conference had reached a crucial stage, and the composite text would provide a valuable means of assessing the negotiations as a whole. Once the composite text had been drafted, the Conference would be able to proceed with the task of preparing a draft convention. With respect to the compilation of the composite text, the most appropriate approach would be for the President and the Chairmen of the Committees to work together. The President had also said that he would prepare a list of key issues requiring further negotiation, and that list would be extremely useful with respect to the preparation of a draft convention. In deciding how to deal with particular issues, the Conference must bear in mind that some proposals had already been put into practice by States and were becoming part of international law.

38. Mr. JACOVIDES (Cyprus) said that his delegation supported the President's proposals, although it shared the concern expressed by the representatives of Kenya and Nepal. The composite text, although the work of a team, would be the responsibility of the President. While the composite text would not have the same status as the text prepared by the International Law Commission for the Geneva Conference of 1958, it would nevertheless carry much more weight. It was to be hoped that the text would not represent a mere compilation of previous proposals.

39. Mr. OGISO (Japan) said that in general his delegation supported the President's proposals. There was some concern that the President would be hampered in his leadership role by the authority bestowed on the Chairmen of the Committees. However, his delegation had been reassured by the President's explanation that the Chairmen of the Committees would not enjoy any right of veto. It was to be hoped that the preparation of a composite text would not lead to any further polarization of views; in that connexion, the President's statement that

delegations must look forward rather than backward should be emphasized.

40. Mr. OXMAN (United States of America) said it was hoped that the composite text would make it possible to reach a general agreement on the over-all balance of the convention. It might be preferable to discuss the composite text before deciding what key issues remained to be resolved. There might be fewer problems than was generally thought.

41. Mr. ENGO (United Republic of Cameroon), speaking as Chairman of the First Committee, said that the President and the Chairmen of the Committees had agreed on a satisfactory method of work with regard to preparing the composite text. Although the President and the three Chairmen had important roles to play, the most important factor would be the manner in which delegations and interest groups met the challenge facing them.

42. Mr. AGUILAR (Venezuela), speaking as Chairman of the Second Committee, said that he endorsed the President's proposals and hoped that they would be accepted by the Committee. It was very important that informal negotiations should continue while the composite text was being prepared. States had a duty to find a compromise solution, since however much was achieved by the President and the three Chairmen, nothing could replace the will of States. In the final analysis, it was States that would decide whether to ratify the convention.

43. Mr. YANKOV (Bulgaria), speaking as Chairman of the Third Committee, said that he fully supported the guidelines proposed by the President. The comments of delegations were very valuable, and must be taken into account. The President's proposals came at an appropriate stage in the negotiations, and might well provide those negotiations with a new impetus. It was time for the promises of the past to be put into effect.

44. The CHAIRMAN assured the Committee that he would take the views of all delegations fully into account. If he heard no objections, he would take it that the General Committee approved his proposals regarding the preparation of the informal composite negotiating text.

*It was so decided.*

45. The CHAIRMAN said that his proposals would be submitted to the plenary meeting.

*The meeting rose at 11.55 a.m.*

## 33rd meeting

Friday, 15 July 1977, at 10.20 a.m.

*Chairman: Mr. H. S. AMERASINGHE (Sri Lanka).*

### Organization of work

1. The CHAIRMAN said that he wished to comment on three matters, namely, the preparation of the informal composite negotiating text, the duration of the current session, and the timing, duration and venue of the next session.

2. He had hoped that the preparation of the informal composite negotiating text would have been completed by Wednesday, 13 July, but negotiations had still been in progress on that date. It was expected that the President of the Conference and the Chairmen of the three Committees would complete work on the text by Sunday, 17 July. It would not however, be possible to have the

complete text ready for distribution by Monday, 18 July.

3. With respect to the duration of the current session, the suggested extension of the session until Monday, 18 July, might serve no useful purpose if the composite text could not be distributed by that date.

4. Mr. CALERO RODRIGUES (Brazil) said that there was no point in extending the current session if the composite text could not be made available in time for the additional meetings. He therefore suggested that the current session should be brought to a close that same day (15 July), and that the composite text should be sent to delegations as soon as possible.

5. The CHAIRMAN said that the composite text should be ready in all languages by Thursday, 21 July, at the latest. If he heard no objections, he would take it that the Committee wished to recommend that the current session should be brought to a close that same day (15 July).

*It was so decided.*

6. The CHAIRMAN, referring to the question of arrangements for the next session, said that offers to host the Conference had been received from various countries. However, the first alternatives to be considered were New York and Geneva. He invited the Special Representative of the Secretary-General to report on the facilities which would be available in New York in 1978.

7. Mr. ZULETA (Special Representative of the Secretary-General) said that, in accordance with the decision taken by the General Assembly at its thirty-first session concerning reconstruction work at Headquarters, Conference Rooms 1 and 4 would not be available from 1 January 1978 to 30 June 1978, and the General Assembly Hall would not be available from 1 January 1978 to 4 August 1978. The largest rooms available to the Conference would therefore be the Trusteeship Council Chamber and Conference Rooms 2 and 3. The Trusteeship Council Chamber could not offer the facilities of the other conference rooms, and neither of the conference rooms available was big enough for all members of all delegations to attend plenary meetings. In addition, work on the General Assembly Hall and Conference Room 4 might prevent use of the smaller conference rooms near Conference Room 4 in the first basement.

8. With respect to meetings scheduled at Headquarters during the first half of 1978, the spring session of the Economic and Social Council, involving the use of the Economic and Social Council Chamber and two main conference rooms, would be held from 10 April 1978 to 12 May 1978. The Trusteeship Council would meet for four weeks beginning on 15 May 1978, and the special session of the General Assembly devoted to disarmament would be held in New York in May and June 1978, with the result that other meetings would have to be rescheduled. The Economic and Social Council Chamber was to be used for meetings of organs of the Council from 9 January 1978 until the opening of the Council's spring session, except for three non-contiguous weeks. The Trusteeship Council Chamber would be occupied from 1 January 1978 until the Council's session; it should be noted, moreover, that bodies which used the Trusteeship Council Chamber consisted mainly of representatives from permanent missions and did not meet at set times, with the result that their transfer elsewhere would cause serious difficulties.

9. If the Conference decided to meet in New York before the spring session of the Economic and Social

Council, certain factors would have to be taken into account. The facilities available would be limited, conference services might have to be supplemented, and meetings of other bodies would have to be rescheduled. Moreover, it would be extremely difficult for preparatory committees and *ad hoc* political committees to meet in New York, and the additional cost of transferring meetings elsewhere was impossible to determine. The net additional cost of transferring meetings to Geneva, for instance, would depend on the contribution which might be made by the permanent staff at Geneva.

10. The CHAIRMAN said that, acting in accordance with General Assembly resolution 31/195, he had consulted with Member States on the question of reconstruction activities at Headquarters and had reported to the Secretary-General. Plans for the reconstruction work had gone ahead on the basis of that report. In his opinion, the meeting room facilities which would be available in New York in 1978, namely the Trusteeship Council Chamber and two of the main conference rooms, would not meet the requirements of the Conference, particularly since the committee stage of the negotiations would have to be completed at the next session. In his view, therefore, New York should be ruled out as a venue for the next session, since any proposal to defer reconstruction work in New York would have to be referred to the General Assembly, and the next session should be held in Geneva, either from 1 February 1978 to 31 March 1978 or from mid-February 1978 to mid-April 1978. No problems would arise in that connexion. However, if the next session was held in neither New York nor Geneva, all the normal requirements would have to be met by the host country.

11. Mr. RATTRAY (Jamaica) said that his Government had offered to host the next session of the Conference in the hope of creating an atmosphere likely to promote consensus. His Government recognized that the physical and human needs generated by such a conference were of equal importance, and, in that connexion, had held extensive consultations with the Department of Conference Services and had obtained all the necessary documentation. In accordance with General Assembly resolution 31/140, the actual additional cost involved in holding the conference in Jamaica would be defrayed by the Jamaican Government.

12. It was important that the progress being made by the Conference should be realistically assessed. Once the composite text had been prepared, further negotiations would be necessary, a formal text would have to be adopted, and formal amendments to that text would have to be considered. Thus, much work still had to be done if the substantive work of the Conference was to be completed in 1978. Previous sessions had often lasted eight weeks, but such an approach was counter-productive since little substantive progress was made in the final two or three weeks of a session. Accordingly, his delegation suggested that the Conference should hold two five-week sessions in 1978, one in late winter and one in early summer. The first of the two sessions could be held in Jamaica.

13. Great emphasis had been placed on the need to provide adequate facilities for the Conference, but the recent power failure in New York had demonstrated that accidents could happen anywhere and served as a lesson to those who claimed that developed countries alone could provide the necessary facilities. His Government had invited representatives from the Department of Conference Services to visit Jamaica and advise on arrange-

ments to be made for the Conference. All necessary communications, accommodation and travel facilities would be provided, including communication by satellite. In that connexion, it should be noted that the cost of hotel accommodation in Jamaica was half that of comparable accommodation in New York or Geneva. It should also be borne in mind that one of the purposes of the Conference was to ensure a more equitable distribution of the benefits to be derived from economic resources.

14. Mr. VELLA (Malta), speaking at the invitation of the Chairman, said that he had been instructed by his Government to make an important statement to the General Committee but, before doing so, he wanted to preface that statement with some pertinent observations.

15. His delegation had always held the view that the Conference should meet where delegations had offices. As far as his delegation was concerned, therefore, New York and Geneva would be acceptable, since it had offices in both cities, with Geneva giving it a logistic advantage. However, considering the validity of the argument of those delegations who preferred New York because it afforded them office facilities, his delegation had had no difficulty in the past, nor would have in the future, in agreeing to meeting in New York.

16. In view of the complex technical issues being discussed, the Conference should ensure impartiality by meeting on neutral ground. However, the invitation by Jamaica to host the next session of the Conference prejudiced that impartiality and he had, therefore, been instructed by his Government to propose Malta as a venue for the same session. The Maltese Government wished to assure all members of the Committee that the facilities available in Malta were no less satisfactory than those which could be provided elsewhere and that its offer to host the Conference was made in full knowledge of the financial implications outlined in General Assembly resolution 31/140. The proposal was being communicated to the Secretary-General.

17. The CHAIRMAN said that the question of neutrality did not arise. The Committee must base its decision on the availability of facilities in the countries under consideration.

18. Mr. ENGO (United Republic of Cameroon) said that there appeared to be some inconsistencies between the statement just made by the Special Representative of the Secretary-General and those made by other members of the Secretariat throughout the past few weeks. What the Special Representative of the Secretary-General had in fact just said was that the seventh session of the Conference should not be held in New York. No mention had been made of Geneva. It seemed that no arrangements had been made with respect to future sessions of the Conference when the decision to alter the Headquarters conference facilities had been taken. He wished to ask the Special Representative of the Secretary-General whether due regard had been given to the fact that the Conference might not have completed its work in 1977 and whether arrangements could be made for a five-week session in New York early in 1978. He wondered what the financial implications of such a five-week session would be. He had been informed that it would cost an additional \$1.5 million.

19. Furthermore, he wished to know what additional costs would be involved if the seventh session was held in Geneva rather than in New York; for instance, the Secretariat staff would have to travel to Geneva. The Chairman had seemed to suggest that New York should

be ruled out and he appealed to him not to press that view at the present stage since some delegations would prefer New York to Geneva. Moreover, two sovereign States had offered to host the next session of the Conference and, as usual, priority should be given to those invitations if facilities were available since it would cost the United Nations no more if the session was held in some place other than New York and Geneva. He would like to have the information he had requested so that his delegation could make the necessary political decisions.

20. The CHAIRMAN said that the Special Representative of the Secretary-General had been requested to comment only on the possibility of holding the seventh session in New York. New York had not, in fact, been ruled out since the matter was one for the General Committee to decide. The Conference had not yet been authorized by any recommendation of the Conference or any decision of the General Assembly, to hold any session beyond 1977. Furthermore, even if the General Assembly wished the next session to be held in New York, the alterations which were to be made to accommodate new members would create difficulties. Any decision to delay such alterations would have to be made by the General Assembly. While the additional cost of holding the seventh session in Geneva would be relatively small, he did not in any way mean to suggest that the offers from Jamaica and Malta should not be considered.

21. Mr. BAROODY (Saudi Arabia), speaking at the invitation of the Chairman, said he hoped that the work of the General Committee and the plenary could be carried out with dispatch so that the Conference could end its work on time. Some delegations had spoken of the cost of the various sessions of the Conference and he wished to point out that every minute spent on procedural matters involved expenditure.

22. The question of the venue of the seventh session was a sensitive one since two sovereign States had offered to host it. Some had spoken in favour of New York and others in favour of Geneva. His delegation had never insisted on solidarity unless a majority of the regional groups wished such solidarity to be applied. The General Committee could not decide on the justification for holding the next session in one country rather than another. He believed that Geneva would be the logical venue, in view of the millions of dollars already spent to increase the facilities of the Palais des Nations. He wondered therefore why the next session should be held in a city where the facilities might not be sufficient. Geneva was accessible to representatives from countries in Europe, Africa and Asia and had the advantage of facilities equal to those in New York. It was precisely because two sovereign States had offered to host the next session that national pride and the desire of any one delegation to explore a new country should be disregarded. For that reason, Geneva, which could provide adequate facilities and the proper atmosphere for the Conference to complete its work, was the logical choice.

23. He therefore appealed to all delegations not to make a major issue of the matter and compel the Conference to extend its work beyond the set date. If the General Committee did not agree to recommend Geneva as the venue of the next session, then he would suggest that it might put the matter to a vote so as not to waste time.

24. The CHAIRMAN pointed out that the General Committee could only make recommendations to the plenary.

25. Mr. NJENGA (Kenya) said that the issue of the venue of the next session could be settled in the plenary. His delegation wished to thank the Government of Jamaica for its kind offer, which had been made in good faith and with the full intention of providing all the necessary facilities. He was sure that any facilities which might not be adequate at present would be improved as soon as the representatives of the Department of Conference Services drew the attention of the Government of Jamaica to them. Some delegations had questioned the facilities available in Jamaica and had compared them to those in New York or Geneva. No developing country could compete with the United Nations in that regard and to make any such comparison was to suggest that no conference should be held in a developing country. Such a move would call into question the decisions of the United Nations to hold various conferences in developing countries, including Kenya, which had already hosted several conferences and had provided the necessary facilities. He therefore requested the General Committee to take due note of the implications of rejecting the offer from a developing country. The next session would be a crucial one and would be successful if the political will was present, regardless of where it was held.

26. With regard to mechanical voting facilities, he pointed out that, even at Headquarters, such facilities were not available for all members of the Conference. Furthermore, it was a well known fact that, if the Conference had adopted the procedure of deciding matters by means of a vote, rather than by consensus, it would have already finished its work.

27. Although African countries had not always wanted to hold sessions in cities where they did not have permanent missions, his delegation fully supported the proposal that the next session of the Conference should be held in Jamaica; that was a political decision adopted in support of a fellow developing country. His delegation could not, however, agree that two sessions should be held in 1978.

28. With regard to the offer made by the Government of Malta, he said that, while he appreciated the invitation, it had come too late for his delegation to contact the Government of Kenya.

29. The CHAIRMAN pointed out that the offer made by the Government of Jamaica was not conditional on the session being of five weeks' duration.

30. Mr. BADAWI (Egypt) said that the General Committee should take due account of the decisions taken by the various regional groups. The group of Arab States believed that the next session of the Conference should be held at a location where the necessary facilities were available. It would therefore prefer New York or Geneva. However, in view of the fact that alterations would be taking place in the Headquarters building in New York during the spring of 1978 which would make it difficult, or even impossible, to hold the session there, the group supported the idea of holding the session at Geneva in March/April 1978. The group of States of the Islamic Conference had made a similar decision.

31. Mr. ARIAS SCHREIBER (Peru) said that all delegations should express their gratitude to the Government of Jamaica, which had demonstrated its continuing interest in the Conference. The same applied to the Government of Malta. He believed that the General Committee should recommend to the plenary that the decision regarding the venue of the next session should depend

on where the Conference could be provided with the best possible means of carrying out its work efficiently and on the needs of the majority of delegations.

32. He agreed with the representative of Kenya that no decision should be taken to hold two sessions in 1978 since that would doom the first of those sessions to failure. While his delegation agreed that impartiality was important, it could not but be sympathetic to the offer made by the Government of Jamaica since it had been one of the first to support that country's offer to host the International Sea-Bed Authority. Information was required regarding the facilities available for delegations and Secretariat staff, such as telex, the number of conference rooms available for concurrent meetings, and so on. In order to arrive at a consensus, close attention should be paid to the direction in which the majority of delegations were moving.

33. In the light of the foregoing, and unless it was possible to dispel the apprehensions regarding communications with Governments, he would ask the two countries which had offered to host the next session, both of which were members of the Group of 77, to consider the difficulties that might arise for several delegations and not to press their offers so that the Conference could meet at the most appropriate site which, in his delegation's view, was Geneva.

34. Mr. IGUCHI (Japan), speaking on behalf of the group of Asian States, said that the group generally agreed that the need for adequate facilities for communicating with capitals and for mechanical voting indicated that either New York or Geneva would offer the most convenient venue for the Conference. In view of the reconstruction work to be carried out in New York, the group felt that Geneva would be the most suitable choice. However, some delegations viewed with sympathy the offer by Jamaica to act as host and felt that it should be studied carefully, as should any other such offers.

35. The view had also been expressed that the seventh session should be held before May 1978 and that the timing of the meeting of the Group of 77 at Dakar should be taken into consideration. It had been suggested that the Conference should meet for a six-week session in Geneva, but no position had been taken with regard to that suggestion.

36. Mr. TURKMEN (Turkey), speaking on behalf of the group of Western European and other States, said that, in the light of the information provided by the Secretariat concerning the restricted facilities which would be available in New York, it was the general view of the group that Geneva should be chosen as the venue of the next session.

37. Mr. ORREGO (Chile) suggested that, in the light of the report presented by the Special Representative of the Secretary-General concerning the lack of facilities available in New York during 1978, New York should be ruled out as the venue for the next session.

38. While his delegation viewed with sympathy the offer put forward by Jamaica, it was also aware of the practical problems of choosing such a venue. The same considerations would probably apply to Malta. His delegation's views should not be regarded as affecting the solidarity of the Group of 77 or any decisions to be taken subsequently concerning the location of the International Sea-Bed Authority. His delegation accordingly associated itself with the appeal made by the representative of Peru to Jamaica and Malta to withdraw their offers. Practical considerations clearly indicated that the choice should be Geneva.

39. Mr. MOLINA (Dominican Republic) said that his delegation, like the majority of the group of Latin American States, supported acceptance of Jamaica's offer. It had every confidence in Jamaica's sincerity and in its capacity to host the next session of the Conference.

40. Mr. BARNES (Liberia) associated himself with the view expressed by the representative of Kenya. No argument had been advanced against the view that Jamaica's offer should be accepted; as a developing country, Jamaica should, therefore, be given the opportunity to demonstrate its ability to provide the necessary facilities.

41. Mr. KOZYREV (Union of Soviet Socialist Republics), speaking on behalf of the group of socialist States, said that that group held the unanimous view that, in the choice of venue, maximum consideration should be given to the availability of facilities.

42. In the light of the statement made by the Special Representative of the Secretary-General and on the basis of previous sessions, the group supported the choice of Geneva as the venue for the seventh session. The group was sympathetic to the offers put forward by Jamaica and Malta, but felt that, since those offers had been made at such a late stage, it was difficult to take a position on them; consequently, the only possibility was to choose Geneva.

43. Mr. BAYAGBONA (Nigeria) urged that Jamaica's invitation should be accepted. He did not think that any objections expressed with regard to the choice of Jamaica were any less applicable to Venezuela, and yet the Conference had not only held a very successful session at Caracas but also planned to hold its final session there.

44. Mr. SAID-VAZIRI (Iran) said that, in the light of the information supplied by the Special Representative of the Secretary-General, his delegation was strongly in favour of holding the seventh session in Geneva, notwithstanding the fact that it was very sympathetic towards the invitations from Jamaica and Malta. Furthermore, his delegation was opposed to holding two sessions in 1978.

45. Mr. CALERO RODRIGUES (Brazil) said that, despite certain practical objections, his delegation was in favour of accepting the offer from Jamaica. That offer had been made in good faith and, in the absence of cogent reasons, it was almost impossible for his delegation to reject it. In the interests of a consensus, however, his delegation took a flexible position on the matter.

46. Mr. FUENTES (Bolivia) said that his delegation had been sympathetic from the outset to the offer from Jamaica to host the seventh session, and supported acceptance of that offer.

47. Mr. ZEA (Colombia) also supported acceptance of Jamaica's offer.

48. Mr. ZULETA (Special Representative of the Secretary-General), replying to the questions put by the representative of the United Republic of Cameroon, said that, in providing information to the regional groups, the Secretariat had confined itself to drawing their attention to conference room paper No. 33, which had been prepared by the Department of Conference Services for the Committee on Conferences; where the groups had so requested, it had also clarified certain points in that document. It was not the Secretariat's responsibility, however, if others interpreted that document differently.

49. As to whether the needs of the Conference had been taken into account in the preparation of the calendar of conferences set forth in that document, he wished to state that the reply given by the Committee on Conferences was much more authoritative than his own, and that it was the General Assembly that had taken the decision concerning the expansion of meeting rooms.

50. The additional costs of transferring the Conference Service staff to Geneva if the session was to be held there were estimated at about \$181,000. In the event that the session was held in New York, additional costs would also have to be incurred because of the need to transfer the sessions of certain bodies to Geneva or elsewhere. Postponement of the reconstruction work for five weeks would mean that the work would subsequently have to be speeded up, necessitating night work; according to a provisional estimate, that would entail additional expenditure of at least \$1.5 million.

51. Mr. MATTHEWS (Trinidad and Tobago) said that his delegation, like the majority of Latin American States, noted Jamaica's assurances that adequate facilities would be provided for the Conference and supported acceptance of that country's offer.

52. The CHAIRMAN said that, whatever the wishes of delegations, practical difficulties made the choice of New York impossible. He noted that the group of Western European and other States, the group of socialist States, the group of Asian States and the group of Arab States—as well as the group of States of the Islamic Conference—supported the choice of Geneva. Two groups had indicated that they did not object to the choice of Jamaica as a venue.

53. He would inform the Conference at the forthcoming plenary meeting of the views which had been expressed so that it could take a decision.

*The meeting rose at 12.10 p.m.*