

# **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/BUR/SR.44**

## **44<sup>th</sup> meeting of the General Committee**

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

## 44th meeting

Thursday, 14 September 1978, at 3.45 p.m.

Chairman: Mr. H. S. AMERASINGHE.

### Organization of the future work of the Conference (concluded)

1. The CHAIRMAN recalled, in connexion with the suggestion made at the preceding meeting by Peru concerning the organization of the sessions of the Conference in 1979, that the decisions taken in that sphere by the Conference during the first part of the seventh session remained valid. Moreover, the Conference's decision to meet a second time in 1978 had been taken on the basis of General Assembly resolution 32/194, paragraph 1. Now, therefore, in accordance with recommendation 9 of document A/CONF.62/62, the Conference had to make provision in its programme of work for 1979 for revising and formalizing the informal composite negotiating text.<sup>1</sup>

2. For the information of certain delegations, he stated that so long as the text remained informal, all proposed amendments concerning it would necessarily be informal as well, but it would be possible to study them nevertheless. It was therefore sufficient to abide by the rules of procedure and let the Conference decide, at the end of the first session scheduled for 1979, whether a second session should be held in that year. However, it would be pointless to ask the General Committee to make a recommendation to that effect to the Conference, since the necessary consensus did not exist. He therefore requested the Peruvian delegation to agree to the suggested procedure, in order to avoid confronting the Conference with an ultimatum.

3. With regard to the organization of the Conference's work, the first three weeks of the next session should be devoted to questions within the competence of the First Committee, without, however, excluding a number of other questions which remained to be decided. In any case, it would be best to avoid adopting an unduly rigid procedure.

4. Mr. DE SOTO (Peru) said that his delegation's proposal was intended precisely to facilitate the work of the Conference and its negotiations by avoiding such abuses as those whose possibility had been mentioned by the representative of Chile at the preceding meeting.

5. The formula proposed by the Chairman did not meet the concern of the Latin American countries in general and Peru in particular. His delegation's proposal, which had gained some support, actually consisted of two parts. The first stage would include a decision that the Conference should conclude its informal negotiations at the end of the coming session scheduled for 1979. Since that part of the proposal had given rise to some objections, his delegation would not press for its retention. Secondly, if the Conference refused to take a decision on that question, it also should not decide to hold a second session in 1979, for the important reasons already stated at the preceding meeting. Delegations were well aware that resumed sessions had not yielded good results. His delegation had therefore suggested, in a spirit of compromise, that the option of holding a second session in 1979 should be retained but that a decision to that effect should be taken by the Conference at the end of its first session and by a two-thirds majority. Even if that proposal was not entirely orthodox from the legal point of view, it seemed wise in that the

decision would be taken by the majority of the members of the Conference.

6. The CHAIRMAN observed that the Peruvian proposal would be tantamount to amending the rules of procedure.

7. Mr. CHAO (Singapore) expressed the hope that the General Assembly would leave the Conference the option of holding two sessions in 1979, postponing to the end of the first session at Geneva the decision concerning the second session. Contrary to the view of some delegations, it was preferable to hold two sessions a year, as in 1976 and 1978. In 1976, for example, the first session had made it possible to formulate a revised version of the negotiating text. The second part of the session had provided an opportunity for useful exchanges of views and an examination in depth of the text agreed on at the first session. It had been expected that the 1978 session would make it possible to make further revisions of the negotiating text. However, that aim had not been achieved, and the situation was therefore confused.

8. Some delegations had called for more discipline and expressed concern at the growing delay in the work of the Conference. However, in view of the complexity of the question and the contradictory interests at stake, it was not surprising that the time had not been sufficient to arrive at any results. The delegations not satisfied with the existing text and the proposed conciliation formulas had, for their part, proposed the establishment of an unduly rigid time-table which would endanger consensus. Nevertheless, it was for the Conference to decide that the eighth session should be devoted to revision of the negotiating text, and, as the representative of Fiji had recommended, to establish a precise and clear programme of work.

9. The Peruvian delegation had proposed that the Conference should not make any arrangements at present for a second session in 1979 unless it decided at the same time that the work of the informal negotiating groups should be completed during the first 1979 session. His delegation understood that some delegations wished to complete the work of the Conference as early as possible. It did not see, however, why the decision to hold two sessions in 1979 should be made contingent on another decision concerning the work of the negotiating groups. It believed, like the delegations of other Asian countries, that the Conference should wait until the end of its coming 1979 session to take a decision concerning a second session. Furthermore, it recognized the need for the Conference to establish a clear and precise programme of work, and it agreed with the comments of the Chairman to the effect that the General Assembly at its coming session could adopt a resolution concerning the organization of the Conference analogous to the resolution it had adopted in 1977.

10. Mr. ADIO (Nigeria) said many delegations had hoped that the work in New York would be as fruitful as the work done at Geneva and make it possible to settle the hard-core issues and to prepare the revision of the text scheduled for 1979. Those hopes had, unfortunately, been disappointed, and, as the Chairman had said, the credibility of the Conference was rapidly diminishing.

11. His delegation hoped that, subject to the conference services available in 1979, the Conference would hold its first 1979 session at Geneva during an approximately six-week period beginning at the end of March. A second session to be

<sup>1</sup>Official Records of the Third United Nations Conference on the Law of the Sea, vol. VIII (United Nations publication, Sales No. E.78.V.4).

held in September 1979 might be envisaged, but a decision on that would have to await the results of the first session.

12. He further recalled that his delegation had taken an active part in the election of the President of the Conference at Geneva. It therefore hoped that the General Assembly at its coming session would take a final decision concerning the financial arrangements relating to the presidency.

13. Lastly, his delegation remained determined to negotiate the outstanding questions in a spirit of cordiality. It hoped that all the participants in the Conference would show the same goodwill, in particular those delegations which had not yet accepted the compromise solution proposed by Nigeria for the common exploitation of undersea mineral resources.

14. Mr. DJALAL (Indonesia) felt that, as the group of Asian States had said at the preceding meeting, there should be two sessions in 1979. The Conference certainly could not go on indefinitely, and negotiations must achieve some results at the next session. In 1977, his delegation had expressed the hope that the work of the Conference would be completed by the end of the decade, in order that the draft convention might be prepared at the beginning of the next decade. The Conference should therefore fix for its first 1979 session the objectives of completing the negotiations and revising the negotiating text. If the negotiations did not bring results, the chairmen of the committees and the negotiating groups might be asked to make informal suggestions which would make it possible to reconcile differing views and which might be submitted officially to the Conference at its second 1979 session. His delegation therefore favoured the holding of two sessions in 1979, the second of which should make it possible to formalize the negotiating text and to propose formal amendments to it. Consequently the Conference should take a decision to that effect in order to facilitate the work of the delegations and enable them to make the financial arrangements necessary for their participation in the Conference in 1979. There would not automatically be a second session in 1979, but the needed arrangements should be made at the present time in case a second session should prove necessary.

15. Mr. WARIOBA (United Republic of Tanzania), speaking at the invitation of the Chairman, recalled that the group of African States had already stated that it would prefer to have the Conference hold a single session in 1979. His delegation shared that view. However, if it proved necessary to hold a second session, his delegation would not object, although it saw no need at present for a second session.

16. The Conference had already devoted nine weeks to the consideration of seven hard-core issues, and if it concentrated again on the same issues at its next session, that would make a total of 15 weeks. That should be ample time, particularly since at the next session the Conference would probably begin substantive negotiations at the very outset. If after 15 weeks it was not in a position to complete the negotiations, the Conference should conclude that perhaps it was not worth while to continue the work by the same method. On the other hand, if at the end of the first session the negotiations on the hard-core issues entrusted to the seven negotiating groups had proved successful, his delegation would not oppose the holding of a second session in 1979, but only on that condition.

17. Mr. BAILEY (Australia) said that the Conference should make the revision of the informal composite negotiating text an objective of its next session. He agreed with the representative of the United Republic of Tanzania that in order to achieve that objective, it would have to continue negotiations on the hard-core issues.

18. Although his delegation understood the concern felt by the representative of Peru, it considered it desirable to bring some discipline into the programme of work of the Conference rather than fixing a precise date for the conclusion of the

informal negotiations; it was therefore grateful to the representative of Peru for not pressing his proposal.

19. It agreed with the Chairman that at the present stage no unduly rigid conditions for the holding of a second session in 1979 should be set. The decision on that question would necessarily depend on the progress made during the first session. However, his delegation wished to state at the present time that it would favour a second session only if the objective it had referred to, namely, the revision of the negotiating text, had been achieved during the first session.

20. Mr. YANKOV (Bulgaria) said that when the decision on the organization of the future work of the Conference was taken, it would be well to keep in mind what had been achieved thus far. On the whole, results had been positive, and significant progress had been made in many areas. Of course, certain hard-core issues remained unresolved, but although negotiations on some of them had not yet yielded compromise formulas, a basis for agreement had nearly been found. The countries of Eastern Europe, for their part, had a keen interest in ensuring that a convention that could win general approval was worked out as speedily as possible. The methods followed thus far, namely, that of consensus and that of working on sets of connected questions, had proved their value.

21. With regard to the following session, he agreed with the Chairman that the Conference should establish an objective and a time-table, but that they should not be too rigid and that anything resembling an ultimatum should be avoided. The revision of the informal composite negotiating text seemed an entirely feasible objective and would constitute the most decisive step forward taken thus far. It would be a mistake to halt the negotiations, which should be pursued as long as the objective of the Conference had not been reached and even after the informal composite negotiating text was formalized. That text would provide the basis for a compromise opening the way to consensus. His delegation therefore proposed suggesting that the General Assembly should take the same decision as in 1977 with respect to the Conference on the law of the sea. He had no objection to highlighting certain questions within the purview of the First Committee, provided that the method of working on groups of issues would not be abandoned. Lastly, he felt that the Conference should continue working in committees.

22. The CHAIRMAN pointed out that highlighting the issues dealt with by the First Committee did not imply that the Conference would cease to consider the other unresolved hard-core issues.

23. Mr. ENGO (United Republic of Cameroon) said that his delegation shared the views expressed by the representative of the United Republic of Tanzania. It appeared from the discussion that nearly all members of the General Committee felt that it was time to move on to a new phase. His delegation agreed that, owing to the time lost at the beginning of the seventh session, the Conference had not had time at Geneva to resolve the outstanding hard-core issues, as it had planned to do, and that it therefore would have to meet again in 1978 in order to try to reach the objective it had set for itself. However, it should avoid giving the impression that the negotiations might drag on indefinitely, and it was therefore important for it to set a well-defined objective for the next session. The least that one might expect in that regard was the revision of the informal composite negotiating text, and if all delegations were in agreement on that point, there was no reason not to take a formal decision on the matter forthwith. It was only on those conditions that his delegation was prepared to envisage a second session for 1978.

24. Mr. BARODY (Saudi Arabia), speaking at the invitation of the Chairman, said that rather than how many sessions should be held in 1979, the important question was whether new methods should be adopted. It might be rather

unwise simply to leave matters as they stood until the next session. The Conference might consider, for example, entrusting a committee of 20 or 30 members with determining what could be done in the interim; alternatively, the Chairman, the Special Representative of the Secretary-General, the Executive Secretary and the chairmen of the three committees—and, of course, the representatives of the United States and the Soviet Union—could unofficially carry out that task. If the preparation of a single convention proved too difficult, why not divide it into three or four chapters which could be opened for signature by States simultaneously? At all events, whether at the first or second session, the Conference could no longer remain content with splitting words. It had to make progress and take action.

25. Mr. CALERO RODRIGUES (Brazil) recalled that his delegation supported the position of the group of Latin-American States in favour of holding two sessions in 1979. However, that position presupposed that the Conference would decide to produce a formal negotiating text before the end of the first session, which did not seem so ambitious an objective as to be termed an ultimatum. If the Conference opened its session with too vague an objective, he feared that matters might go as they had gone at Geneva and New York in 1978 and that discussion would be prolonged indefinitely. His delegation was therefore dismayed to see that the proposal of the representative of Peru had met with such strong opposition from certain quarters; it appealed to delegations to give the proposal serious consideration. It also wished to recall that the end of the informal phase of the negotiations did not mean that the Conference would immediately proceed to take a vote. The rules of procedure called for consensus, and it was on that basis that the Conference would work to the end. If the first session in 1979 did not result in revision and formalization of the negotiating text, his delegation would oppose the convening of a second session in 1979.

26. The CHAIRMAN confirmed that formalizing the negotiating text did not necessarily imply that the Conference would immediately proceed to a vote. He was confident that, once such misgivings were dispelled, agreement should be possible.

27. Mr. KOZYREV (Union of Soviet Socialist Republics) agreed with the view expressed by most speakers that the General Committee should suggest that the plenary Conference should recommend to the General Assembly the convening of an eighth session at Geneva in April-May 1979.

28. On the question whether it would be useful to hold another session in 1979, he felt that it was not yet possible to judge. That decision should be taken at the eighth session in the light of the progress made.

29. He acknowledged that the Conference should adopt, as the objective of its eighth session, the conclusion of informal negotiations and the revision of the informal composite negotiating text; however, he could not accept a decision by the Conference to preclude the possibility of holding a ninth session in 1979 if informal negotiations were not completed by the end of the eighth session. So drastic a decision could only serve the interests of those who sought to endanger the work of the Conference and were in no hurry to see it adopt a universally applicable convention. His delegation was confident that the great majority of the participants would be able to thwart those manoeuvres and would continue to work, as the Union of Soviet Socialist Republics was doing, for the success of the Conference.

30. As for the formalization of the revised informal composite negotiating text, a decision could be taken only after careful consideration of the new text.

31. His delegation therefore felt that the Chairman should, as he had proposed at the beginning of the session, suggest to the plenary Conference that the eighth session be con-

vened in April-May 1979 at Geneva in order to complete informal negotiations on the negotiating text and proceed to its revision. The Chairman should also suggest giving consideration during the eighth session to the possibility of holding another session in 1979. The General Assembly would surely approve such a proposal.

32. The CHAIRMAN said the General Committee might suggest that the plenary Conference should recommend to the General Assembly that the eighth session of the United Nations Conference on the Law of the Sea should be convened on 19 March 1979 at Geneva for a period of six weeks in order to complete informal negotiations and to revise the negotiating text.

33. The Conference also recommends that the General Assembly should empower it to decide, if it deemed it useful at the end of its eighth session, to resume its work and meet once again for that purpose during the summer of 1979.

34. As could be seen from the decisions of the Conference on the organization of its work (A/CONF.62/62), it was imperative to achieve some measure of agreement on the hard-core issues. Accordingly, the Conference, at its next session, should conclude all ongoing negotiations, so that the three committees and the plenary Conference could take a decision before the end of the eighth session concerning the basis on which the negotiating text should be revised.

35. Since all the issues were closely interwoven, the chairmen of the negotiating groups should consult with the President of the Conference, the chairmen of the committees and the members of their own groups and, in consultation with them, define the most suitable procedure for attempting to settle those issues.

36. Mr. DE SOTO (Peru) said that he had no objection to the Chairman's making those suggestions to the plenary Conference but reserved the right to appeal to other delegations before the plenary Conference met and explain the justification for his country's proposals.

37. Mr. ZEGERS (Chile) requested the Chairman to clarify certain aspects of the suggestions he proposed to make to the plenary Conference.

38. First, he wished to know whether the Chairman intended to suggest to the plenary Conference that the question of formalizing the revised negotiating text should be considered at the eighth session.

39. Secondly, he would be grateful if the Chairman would explain whether the negotiating groups set up to consider the hard-core issues would be retained and whether priority would continue to be given to the issues dealt with by the First Committee.

40. The CHAIRMAN said that, as was provided in recommendation 12 (d), of document A/CONF.62/62, the Conference could, if time permitted, consider the question of formalizing the revised negotiating text at its eighth session. Otherwise it would take up that question at its ninth session.

41. With regard to the hard-core issues, the Conference would continue discussing them and other questions deemed important by the delegations. The work of the First Committee would continue to be given very special attention, but that did not mean that other issues could not be discussed if the need arose.

42. Mr. DE SOTO (Peru) asked the Chairman whether the hard-core issues would continue to be examined in accordance with the procedure laid down in document A/CONF.62/62, that is, whether the existing negotiating groups should be retained and should continue their work.

43. The CHAIRMAN recalled that the negotiating groups in question had at first been expected to complete their work at the current session. It was now necessary, therefore, to consider how far the groups had carried out their tasks and to decide, in the light of the progress made, whether or not

to extend their mandate. Since the hard-core issues which the negotiating groups had been instructed to examine fell within the competence of all three committees, the plenary Conference would have to appraise, at the appropriate time, the progress made by each negotiating group and to establish, if necessary, an order of priority for the examination of any outstanding matters.

44. Mr. ENGO (United Republic of Cameroon) said that he could not express an opinion on the holding of the next session until he knew the precise task assigned to the Conference at that session, the procedure to be followed and the number of sessions to be held in 1979.

45. Mr. NANDAN (Fiji) observed with regret that the only objective the Committee seemed to wish to establish for the next session of the Conference was the revision of the negotiating text and that the question of formalizing that text had not been raised.

46. His delegation believed that if it was not decided to proceed to the formalization of the negotiating text as soon as it was revised, the Committee should at least agree now that the question of its formalization would be considered before the end of the next session.

47. He therefore hoped that the Chairman would be able to include a provision to that effect in the draft recommendation he proposed to submit to the plenary Conference.

48. The CHAIRMAN said that he had not dismissed the possibility of proceeding to the formalization of the revised negotiating text before the end of the eighth session if time permitted.

49. He also wished to make it clear that he did not intend to suggest to the plenary Conference that the negotiating groups should be dissolved and that it was the responsibility of the committees to determine whether or not the negotiating groups should be retained.

50. Mr. ZEGERS (Chile) stated that he could not accept the Chairman's proposal. It would, in his opinion, be regrettable to reopen the debate on the question of determining the hard-core issues and the best procedure to be followed for their consideration. On the contrary, if progress was to be made in the consideration of those issues, the existing negotiating groups should be retained. The formalization of the revised negotiating text should also be included among the objectives of the Conference, but any decision in that respect should be taken by consensus.

51. The CHAIRMAN said he did not intend to suggest that the procedure laid down in document A/CONF.62/62 should be disregarded. He was simply proposing that the plenary Conference, if it deemed it appropriate, should recommend to the General Assembly that a second session should be convened in 1979 and that those matters on which no agreement could be reached or no progress could be made should be referred to the plenary Conference. The General Committee could not take a decision on that matter until it had heard the chairmen of the negotiating groups.

52. Mr. ZEGERS (Chile) said it must be made clear that at its next session the Conference would abide by the procedure laid down in document A/CONF.62/62.

53. The CHAIRMAN assured the representative of Chile that he did not intend to recommend any change in that procedure to the plenary Conference.

54. Mr. CALERO RODRIGUES (Brazil) supported the proposal made by the representative of Chile. It should be made clear that the procedure followed thus far would not be changed and that the negotiating groups would begin their work as soon as the next session was opened.

55. The CHAIRMAN suggested that the General Committee should therefore include in the draft recommendations to be submitted to the plenary Conference a provision to the effect that the negotiating groups should be retained and should resume their work at the opening of the next session.

*It was so decided.*

56. Mr. MARSIT (Tunisia) welcomed that decision, as it was essential that the plenary Conference should immediately establish the procedure to be followed at the eighth session.

57. The plenary Conference should also decide immediately, as the representative of Egypt had requested that morning on behalf of the group of Arab States, that its eighth session would be devoted to the revision of the negotiating text and to the consideration of its formalization.

58. Mr. NANDAN (Fiji) felt it should be clearly stated that the formalization of the revised negotiating text was to be envisaged before the end of the eighth session.

59. The CHAIRMAN said that he was quite willing to make such a statement and therefore proposed that the General Committee should state in the draft recommendation to be submitted to the plenary Conference that the Conference should also examine the possibility of formalizing the revised negotiating text before the end of the eighth session.

*It was so decided.*

60. Mr. ENGO (United Republic of Cameroon), speaking in his capacity as Chairman of the First Committee, stated that he had assured those delegations which wished the First Committee to meet in the evening to examine the reports of that Committee's three negotiating groups that he would allow them to present their comments on those reports at the beginning of the next session. He therefore felt that it would not be necessary for the First Committee to meet again before the closure of the present session.

61. The CHAIRMAN said it had been his intention to suggest that the plenary Conference should not open any debate on the chairmen's reports but should confine itself to taking note of them.

*The meeting rose at 5.45 p.m.*