

Third United Nations Conference on the Law of the Sea

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-

A/CONF.62/SR.155

155th Plenary meeting

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume XV (Summary Records, Plenary, General Committee and First Committee, as well as Documents of the Conference, Tenth and Resumed Tenth Sessions)*

marketing of minerals and commodities derived from the resources of the area, should avoid economic practices which caused, or threatened to cause, material injury to the interests of another State party. He had encouraged the private informal initiative of the Chairman of the Australian delegation, and had invited him to inform the Committee of the results of his initiative.

63. Concerning the suggestions by some less industrialized western States for an increase in minimum representation for the geographical groups in the Council, he knew of no contacts between interested parties during the session in course. It appeared that the concern of those States had not been to challenge existing consensus on the question of the Council. He requested those States to inform him of any hope for a solution that might emerge from their consultations with other groups.

64. The First Committee had taken note of the indicative vote in the informal plenary which had made it clear that Jamaica would host the international sea-bed Authority and the organs being created under it. The decision to focus on developing countries in the creation of new international organizations was a progressive one. A poor developing country, such as Fiji, could favourably be considered as an operations, research and practical training base for the Enterprise; and consideration would undoubtedly be given to other activities—for example a centre for training personnel in disciplines related to sea-bed mining—which might be located in other developing countries such as Malta and Yugoslavia.

65. Mr. POWELL-JONES (United Kingdom), referring to the proposal by Australia on unfair economic practices, said it was well known that his delegation did not consider that a provision on that subject should be included in the convention. Furthermore, interested parties had not appeared to make progress towards a consensus.

66. Mr. CHARRY SAMPER (Colombia) proposed that, since his delegation had not had the opportunity to express its

views in adequate detail in the First Committee, the issue of the preparatory commission should be referred back to the plenary after all the administrative, political and financial implications had been studied. Colombia, as a developing country, could not shoulder unnecessary financial burdens and therefore hoped that in all matters involving expenditure the criteria of austerity and efficiency would be applied.

67. Mr. KOZYREV (Union of Soviet Socialist Republics) said that his delegation had listened attentively to the report on the work of the First Committee and the working group of 21 at the present session on the question of the Preparatory Commission for the establishment of the international sea-bed Authority and the international Tribunal for the law of the sea; and it thought that the constructive and co-operative attitude displayed by the Group of 77 in the search for compromise solutions deserved special commendation. The President of the Conference and the Chairman of the First Committee had succeeded in preparing a single draft resolution from two documents. As a result, only one important issue remained outstanding—namely, the procedure for decision-making on questions of substance in the Preparatory Commission. His delegation believed that decisions should be taken by consensus, and it would do all it could to work towards a mutually acceptable solution of that question, based on the compromise formula in article 161 of the draft convention.

68. Mr. BRENNAN (Australia) said that the unfair economic practices clause was one which had commended itself to several Asian, African and Latin American delegations. Abstention from unfair practices was a general obligation of the parties to the General Agreement on Tariffs and Trade, and there were provisions on that subject in agreements between Australia, the United Kingdom, and the members of the European Economic Community. He hoped that the United Kingdom's reservations would be withdrawn at the following session.

The meeting rose at 12.55 p.m.

155th meeting

Friday, 28 August 1981, at 3.20 p.m.

President: Mr. T. T. B. KOH (Singapore)

Study on the future functions of the Secretary-General under the draft convention and on the needs of countries, especially developing countries, for information, advice and assistance under the new legal régime

1. Mr. ZULETA (Special Representative of the Secretary-General) introduced the study prepared by the Secretary-General (A/CONF.62/L.76) in pursuance of paragraph 6 of General Assembly resolution 35/116. In the preparation of the study, the Secretary-General had been guided by a principle underlying the negotiations carried out by the Conference, and affirmed in the third preambular paragraph of its draft convention, that the problems of ocean space were closely interrelated and needed to be considered as a whole.

2. It had not been easy for the Secretariat to prepare a study of that nature, since the problems that would arise for countries as a consequence of the new legal régime affected a wide range of sectors within each country. The law of the sea had ceased to be the exclusive privilege of lawyers and had become a topic of national interest in each country, since it affected a country's economic and social development planning, its international relations in the widest sense and even the internal structure of the State.

3. With that in mind, the Secretariat had drawn up a preliminary list of problems of an institutional nature which might arise within the United Nations Secretariat with regard

to the functions expressly assigned to the Secretary-General by the convention. Another preliminary list provided a first identification of matters that would inevitably be of major concern to Governments in their adjustment to the new legal régime, which should be seen in the context of a progressive development which had in a sense already taken place as a result of the work of the Conference. The aim of the United Nations system as a whole was to ensure that the draft convention should be understood and interpreted by the different components of the system in a consistent manner.

4. The report did of course have some understandable defects. A more detailed study could be made only with the support of Governments; and the Secretariat would welcome all informal and formal observations which would make for a more complete and coherent analysis of a completely novel national and international problem.

5. Mr. ARIAS SCHREIBER (Peru) said that the study would be extremely valuable both for Governments and for international organizations involved in the application of the convention. From the description of the functions of the Secretary-General under various provisions of the convention, and from the list of activities to be undertaken by States in order to give effect to the new legal régime, it was clear that the services of the Secretariat would be needed to provide the information, advice and assistance requested by all States, and

particularly the developing countries. He proposed that the Conference should request the Secretary-General to continue the study which, apart from the lists of functions and activities, offered a useful evaluation and explanation of the requirements involved. Governments would then be able to consider all the implications of the question, and the Conference would be able at its next session to take a decision on the functions of the Secretariat in the application of the convention.

6. Mr. LUPINACCI (Uruguay) supported the Peruvian proposal. The Secretary-General should be requested to solicit comments from the Governments and to continue the study in greater depth.

7. Mr. UL-HAQUE (Pakistan) said that the study would be extremely useful, particularly for developing countries, and that the Secretary-General's efforts should be commended. He endorsed the proposal by Peru.

8. Mr. YANKOV (Bulgaria), speaking as Chairman of the Third Committee, expressed his appreciation of the study. He noted that it contained several references to the subject of marine pollution and to the role which the Secretary-General and the United Nations could play in preventing it. In many provisions in Part XII of the draft convention, reference was made to "competent international organizations"; and it seemed relevant that the United Nations, and the Secretary-General in particular, should play a co-ordinating role in the efforts of the competent organizations to provide the necessary information, and in the concerted operational action of those organizations.

9. He considered that the Secretary-General's study should be continued in order to provide more information which would contribute to the understanding, interpretation and application of the provisions of the convention.

10. Mr. GAYAN (Mauritius) requested clarification with regard to the financial implications of conducting the study further.

11. Mr. ZULETA (Special Representative of the Secretary-General) explained that the first preliminary study had been undertaken with the existing resources of the Conference secretariat and with the collaboration of different departments of the United Nations Secretariat and of various specialized agencies. The Secretariat hoped to continue with the study without having to resort to resources from outside the system, and with the collaboration of Governments, where relevant, in elucidating the issues involved.

12. The PRESIDENT said that, in the absence of objections, he would take it that the Conference wished to adopt the Peruvian proposal.

It was so decided.

Draft resolution on development of national marine science, technology and ocean service infrastructures submitted by Pakistan on behalf of the Group of 77

13. The PRESIDENT explained that the draft resolution submitted on behalf of the Group of 77 by Pakistan (A/CONF.62/L.79) superseded draft resolution A/CONF.62/L.68 which had been introduced during the first half of the tenth session. The Chairman of the Group of 77 had been asked to conduct negotiations on the original draft with delegations for which the text raised some substantive difficulties.

14. Mr. UL-HAQUE (Pakistan), Chairman of the Group of 77, said that changes had been made only in the preambular section of the original draft resolution. The changes were not of a substantive nature, but were designed to ensure the adoption of the draft resolution by consensus. In the course of consultations with the regional groups, no objections had been raised with regard to the substance; but it was thought that the

procedure might pose problems. The Group of 77 had therefore agreed that consideration of the draft resolution should be postponed until the next session of the Conference.

15. Mr. HOWADT (Austria), speaking on behalf of the chairman of the group of land-locked and geographically disadvantaged States, said that the group, while in general agreement with the draft resolution, could not accept the foot-note concerning the use of the term "geographically disadvantaged". It was in no way prepared to accept such a procedure of being "re-baptized" by any other participant or group of participants in the Conference, and would use all procedural means to prevent it.

16. He agreed with the proposal that the draft resolution should be dealt with at the eleventh session of the Conference.

17. Mr. ARIAS SCHREIBER (Peru) said he regretted the statement made by the representative of Austria, since the language used in the foot-note to the draft resolution was the language used in the draft convention, which was a document elaborated by all States participating in the Conference and not by any particular group of countries.

18. The PRESIDENT suggested that the Chairman of the Group of 77 might be asked to consult with interested delegations with a view to the adoption of the draft resolution at the next session.

It was so decided.

Credentials of representatives to the resumed tenth session of the Third United Nations Conference on the Law of the Sea: report of the Credentials Committee

19. Mr. HALL (Executive Secretary of the Conference) introduced the report of the Credentials Committee (A/CONF.62/115).

20. Mr. YANKOV (Bulgaria) asked whether, for the purposes of general information and in order to provide a clearer idea of total participation in the session, it would be possible to give details of the number of international organizations present.

21. The PRESIDENT said that participation in the session by international organizations was as follows: United Nations organs, 5; specialized agencies, 11; intergovernmental organizations, 12; and non-governmental organizations, 16.

22. The PRESIDENT suggested that the Conference should take note of the report of the Credentials Committee.

It was so decided.

Programme of work for the eleventh session of the Conference

23. The PRESIDENT said that, in preparing the programme of work (A/CONF.62/L.80) for the eleventh and final decision-making session for the adoption of a convention on the law of the sea, the Collegium had taken into account the observations of the delegations of the United Republic of Tanzania and Kenya that the programme of work must be credible, in the sense that it must contain realistic and yet firm proposals for the completion of the various stages of work leading to the adoption of the convention at the end of the eleventh session. The Collegium was indebted to the Special Representative of the Secretary-General who had held consultations with the Chairmen of all the regional groups and with various delegations which had spoken at the meetings of the General Committee and the plenary on 24 August. The views of all those groups and delegations had been taken into account in the preparation of the programme of work.

24. Mr. MALONE (United States of America) said that in general his delegation had had no difficulties with the proposed programme of work, but in view of the admonition that the programme must be a credible, flexible, realistic and serious one, he wished to draw attention to the reference—

under the heading "First Stage"—to the continuation of consultations and negotiations on pending issues during the first three weeks of the session. For continuing consultations and negotiations, it would be more realistic to allow four clear weeks, during which the Conference would not involve itself in other considerations.

25. The PRESIDENT said that the Collegium had considered that question at some length, and had concluded that an extension of the first stage might make it difficult to complete the four remaining stages within the allotted time. Negotiations were subject to Parkinson's Law and invariably took up all the time allowed for them. At earlier sessions the allocation of time for negotiations had often been too generous and delegations had spent too long in preparing for genuine negotiations. The Collegium believed that at the eleventh session the first stage should last only three weeks, and that delegations should come to the Conference ready to plunge into intensive and serious negotiations at once.

26. Mr. MALONE (United States of America) said he thought that it would be more realistic to extend the period of the Conference by an additional week, which could be added at the beginning of the session.

27. Mr. ABAD SANTOS (Philippines) said that the Conference had failed to comply with the programme of work agreed upon at the end of the ninth session; the resumed tenth session had been just as unproductive as the first part of the session in New York.

28. At the 153rd plenary meeting, his delegation had asked the President to identify for the record the "certain outstanding issues" which could be the subject of continued consultations and negotiations notwithstanding the upgrading of the draft convention from the "WP" to the "L" series of documents. It had made the request because it had wanted the list of such issues to be frozen, and also because it had wanted to be assured that the list included the issue of innocent passage of warships in the territorial sea. He thanked the President for acceding to that request.

29. His delegation hoped that the "certain outstanding issues" would not multiply during the eleventh session. In particular, it expected that no new issues would emerge from Part XI of the official draft convention; if they did, all the efforts made over the last ten years would have gone to waste.

30. The PRESIDENT said he could not agree that nothing had been achieved at the tenth session. In spite of difficulties, the plenary had dealt with over 1,500 recommendations from the Drafting Committee; it had been agreed by consensus that the draft convention should be elevated from the status of an informal text to that of an official Conference document; by democratic process, a measure of agreement had been arrived at regarding the seat of the Authority and the Tribunal; a compromise proposal on delimitation, which had the widespread support of the groups of 22 and 29, had at last been found; and there was now a sense of collective determination that the eleventh session must be the final session.

31. Mr. MAZILU (Romania), speaking on behalf of the group of Eastern European States, expressed the group's support for the proposed programme of work and its hope that at the eleventh session of the Conference consultations and negotiations would be completed and the convention on the law of the sea adopted.

32. Mr. WARIOBA (United Republic of Tanzania) said he appreciated the fact that the Collegium, when drawing up the programme of work, had taken into account his delegation's comment that the programme must be credible and realistic. However, since the Conference was subject to Parkinson's Law and its sessions took some time to "warm up", he doubted whether it was realistic to call rule 33 of the rules of procedure into play at the beginning of the third stage of the proposed programme of work, and then to expect that the

eleventh session could be concluded in less than four weeks. It would be better to reduce both the "warming-up" period and also the time during which rule 33 of the rules of procedure would be applicable. He therefore suggested that the first stage of the programme be reduced from three weeks to two, and that the week thus saved should be split between the third and fifth stages.

33. Mr. UL-HAQUE (Pakistan), speaking on behalf of the Group of 77, said that it would be appreciated if the three working days prior to the eleventh session, namely, 3 to 5 March 1982, could be set aside for meetings of the Group of 77.

34. With regard to the proposed programme of work, he said that, in view of the Conference's determination to adopt the draft convention at the eleventh session, he would have preferred to see a reference to the automatic application of rule 33 of the rules of procedure. He thought that the first sentence under the heading "Third Stage" could have been drafted in more formal terms to state that on Tuesday, 6 April 1982, rule 33 would come into operation.

35. Also, with regard to the first paragraph under the heading "Fifth Stage", it seemed to him that there was no need for the Conference to spend any time in determining what would automatically have become clear by the end of the fourth stage of the eleventh session. The wording of that paragraph could perhaps be modified accordingly.

36. Lastly, with regard to the second paragraph under the heading "Fifth Stage", he doubted whether one week would suffice for the necessary voting procedures. Possibly more time could be provided for that purpose if the second stage were shortened.

37. The PRESIDENT said that, in the absence of any comment, he would take it that there was no objection to the three working days, 3 to 5 March 1982 being set aside for meetings of the Group of 77.

It was so agreed.

38. The PRESIDENT, replying to two other points raised by the representative of Pakistan, pointed out first that the first paragraph under the heading "Fifth Stage" had been included because rule 37 of the rules of procedure required that, before voting began, a determination must be made that all efforts at reaching general agreement had been exhausted. Secondly, a few days were needed during the second stage not only for the general debate but also to enable the Secretariat to prepare the new documentation in all working languages.

39. Mr. KOZYREV (Union of Soviet Socialist Republics) said his delegation considered that the proposed programme of work for the eleventh session was realistic, and hoped that the President and the Collegium would make every effort to ensure that it was strictly implemented so that the draft convention on the law of the sea would indeed be adopted at the spring session in 1982.

40. Everyone knew why the Conference had not completed its work at the tenth session. The delay in the adoption of the convention was due to the attitude adopted by the United States delegation. That attitude, which had been condemned by the group of Eastern European States, the Group of 77 and many other delegations, was regarded by the overwhelming majority of participants as an attitude of obstructionism designed to hold up the work of the Conference and obtain unilateral advantages for the United States, or even to disrupt the Conference altogether.

41. The existing draft convention on the law of the sea constituted an important step forward in the codification of modern international law. It was a significant reflection of the new realities in the world and, in particular, of the principles of the sovereign equality of all States, large and small, rich and poor, and of peaceful co-existence of States with different economic and political systems. The draft convention also

reflected the aspirations of the developing countries for new and just economic relationships that took into account the interests of all countries, particularly those of the developing countries. For those reasons, all countries and peoples of the world stood to gain from the adoption of a convention on the law of the sea based on the existing draft. At the tenth session, an absolute majority of the participants had rejected the attempt to demolish the draft convention. Their stand was reflected in the decision taken by the Conference at the 153rd meeting, to formalize the text, to hold a final session for the adoption of the convention and to request the Secretary-General to consult the Government of Venezuela in order to arrange for the signature of the convention at Caracas in September 1982. That decision had been supported not only by the socialist and the developing countries but also by certain industrially developed capitalist countries which had expressed their hopes for a speedy adoption of the existing draft convention, thereby confirming their determination to accomplish the task entrusted to them by the United Nations.

42. The present session had demonstrated to the United States Administration that the Conference categorically rejected any changes in the basic provisions of the existing draft, including the provisions of Part XI. He hoped that the United States Government would pay heed to that clear response from the international community and would revise the attitude it had adopted at the tenth session. The Soviet Union, for its part, would continue to support the adoption of a draft convention to regulate the use of the sea and its resources. Such a convention would not only be an important instrument in the progressive development of international law, but would also strengthen peace and international co-operation on the high seas.

43. Mr. TORRAS de la LUZ (Cuba) said that, in view of the attitude adopted by the United States delegation, it was not possible to feel fully satisfied at the progress made at the tenth session, but the results could be regarded as positive.

44. In his delegation's view, strict adherence to the proposed programme of work was essential in order to conclude the work of the Conference at the eleventh session. That would require the co-operation of all delegations. It was important to bear in mind that the principle that the resources of the sea beyond the limits of national jurisdiction were the common heritage of mankind meant also that the convention would serve as an instrument of peace, since it would establish a régime of internationally recognized limits that could not be violated by any Power—a régime which would preclude incidents such as the shooting down of two Libyan aircraft by the United States Air Force.

45. Mr. MIZZI (Malta) said that, although the Conference would fall short of Malta's original expectations, his delegation nonetheless believed that it would have far-reaching significance for all nations and trusted that the international community would endeavour to bring its work to a successful conclusion.

46. He expressed his delegation's full support for the plan of action for the future, and said that his delegation respected the Conference's decision regarding the choice of site for the Authority but remained convinced that, for historical, geographic, economic and other reasons, Malta was the ideal site. Malta was grateful for the democratic manner in which the issue had been settled and wished to thank the many countries that had honoured it with their support.

47. The facilities available in Malta would continue to be at the disposal of the Preparatory Commission and of the Authority itself. His country trusted that, in the event of any future allocation of establishments to enhance the work and representation of the Authority, Malta's central position between Africa, Asia and Europe would receive due recognition. Malta already had some experience of hosting international organizations, and some expertise in organizing

courses on such matters as the management of ocean resources, thus laying the foundation for a cadre of experts who would be prepared to participate in the activities of the Authority.

48. He assured Jamaica of Malta's fullest co-operation, and expressed the hope that the aspirations of Fiji would likewise be satisfied.

49. Mr. MUDHO (Kenya) said his delegation considered that the proposed programme of work was fairly realistic; but he was prepared to listen to any suggestions for improving it. In particular, he endorsed the views expressed by the representative of Pakistan regarding the third and fifth stages of the proposed programme of work. He urged that every effort be made to ensure that the eleventh session was indeed the final decision-making session of the Conference.

50. Mr. GAYAN (Mauritius) said that his delegation would be pleased if the eleventh session were really to be the final session of the Conference, but it did not think that the proposed programme was conducive to that end. With regard to the first stage, he thought that three weeks was too long for consultations and negotiations. With regard to the third stage, he agreed that the Conference should not have to meet to decide whether rule 33 was applicable to the draft convention; nor should it have to decide that all formal proposals which had previously been presented should be treated as having lapsed. Application of rule 33 of the rules of procedure, and the lapsing of previous proposals, should be automatic.

51. He asked whether, in the fourth stage, the requirement that formal amendments would have to be submitted to the secretariat by 6 p.m. on Tuesday, 13 April, would apply also to oral amendments or sub-amendments.

52. He agreed with the representative of Pakistan that the time allowed for decision-making in the fifth stage might be too short. He also wished to know when the official text of the draft convention would be available and whether it would be circulated before delegations left Geneva.

53. Mr. ZULETA (Special Representative of the Secretary-General) replied that the official text would inevitably take a few days to prepare after the Collegium had incorporated the agreed changes; but, once prepared, it would be made available to delegations both in Geneva and New York.

54. Mr. MALITA (Romania) paid tribute to the Chairman's efforts to consolidate the text of the convention during the present session. The Conference's decision to make the text official would allow negotiations to continue on outstanding issues so that acceptable solutions could be found. The programme of work was satisfactory to his delegation.

55. Before the convention was finally adopted, the Conference should concentrate its attention on improving the present text to ensure access to the sea for land-locked countries, to provide for the right of innocent passage of warships in the territorial sea and to affirm the right of States to submit reservations to the convention.

56. Mr. DREHER (Federal Republic of Germany) said that the proposed programme of work presented no substantial difficulties for his delegation, which was grateful to the Collegium for its efforts.

57. He agreed that the programme must be realistic, and feared that the three-week period allowed for consultations and negotiations in the first stage would be a little short in view of the many issues outstanding. It might be better to adopt a flexible attitude on the length of the first stage and provide for the possibility of a fourth week for informal consultations.

58. Mr. PINTO (Portugal) recalled the statement by the Chairman of the First Committee to the effect that regional centres might be set up in Malta, Yugoslavia, and Fiji, which had been candidates for the headquarters of the international sea-bed Authority. Since Portugal too had been a candidate country, a regional centre should be set up there as well.

59. Mr. EVENSEN (Norway) asked whether, if the Conference agreed that the convention should be adopted by vote and if more time were needed for that purpose, it would be possible to extend the fifth stage beyond 30 April exclusively for that purpose.

60. Mr. AL-WITRI (Iraq) considered that eight weeks was quite enough for the Conference to conclude its work.

61. With regard to the proposed signing of the convention at Caracas in September 1982, he drew attention to the fact that the seventh summit conference of non-aligned countries was to be held during that month at Baghdad. He requested that the necessary arrangements be made to ensure that the dates of the two Conferences did not overlap.

62. The PRESIDENT said that the dates would be chosen to avoid overlapping.

63. Mr. ARIAS SCHREIBER (Peru) said that his delegation agreed with the programme of work, and considered that the three-week period for consultations and negotiations during the first stage should be maintained. The results of the consultations would not depend on the time available but on the flexibility and realism shown by delegations, particularly by those which had thought it possible to revise the basic provisions of a convention that had been negotiated by consensus. He hoped that those delegations had now understood the feeling of the Conference and would not try to introduce any new changes.

64. With regard to the point made by the representative of Norway, he said that the secretariat should provide facilities for extending the eleventh session of the Conference if that proved necessary.

65. Mr. JAGOTA (India) thought that the proposed programme of work would not be practicable beyond the first and second stages. After the second stage, the time-table would depend on developments during the eleventh session. The programme was based on an expectation that everything would go smoothly, but it contained elements that might give rise to time-consuming procedural discussions.

66. In his view, the Conference must now take a decision on three points. First, the suggestion made under the heading "Third Stage" that the Conference should meet to decide whether rule 33 of the rules of procedure was applicable to the draft convention was superfluous. Now that the draft convention had become the official text of the Conference, rule 33 applied automatically; and accordingly the question to be decided was not whether, but when, rule 33 was to become applicable.

67. The Conference should also clearly indicate the time-limit up to which amendments, if any, could be made. That question should not be left for decision later. In the proposed programme, it was stated that amendments would have to be submitted by 13 April; but he wondered whether that date was realistic. Since the Drafting Committee would be reviewing its work until 12 April, he did not think that a precise text to which formal amendments could be submitted would be available by 13 April.

68. Secondly, with regard to the question of the further work of the Conference after amendments had been submitted, he wondered whether a vote would be taken in the Committee or in the plenary meeting of the Conference. The rules of procedure shed no light on that question. He suggested that, in the interests of adhering to the proposed time-table, a decision should be taken now, or at a later stage, to the effect that a vote should be taken only in the plenary meeting of the Conference.

69. Thirdly, with respect to the fifth stage and the mention of 23 April as the date by which the Conference would have to determine whether all efforts at reaching general agreement had been exhausted, he had noted the President's comment

that such a determination was necessary in order to comply with rule 37 of the rules of procedure. However, if by 23 April all the amendments had been voted on and all that remained for the Conference was to vote on the draft convention as a whole, rule 37 would not be applicable since rule 39, paragraph 2, stated that rule 37 did not apply to the adoption of the convention as a whole. On the other hand, if the reference to a determination—under rule 37—that all efforts at reaching agreement had been exhausted was to be taken as applying to individual articles, then that reference should be placed under the heading "Fourth Stage", which was the stage for dealing with individual articles, but, if 23 April were retained as the date by which such determination had to be made in respect of individual articles, it might be impossible to conclude the session by 30 April. Further attention must therefore be given to the question of dates in the fourth and fifth stages.

70. The question whether or not the Conference would need more time at the eleventh session to finish its work should not be linked to the question of a particular vote: the matter should be discussed on its merits. The fifth stage should be devoted solely to the adoption of the convention as a whole, to which rule 37 would not apply.

71. Mr. TSHIKALA KAKWAKA (Zaire) stressed the importance of the convention for the future of mankind, and congratulated the President on the progress achieved during the session under his wise guidance. It would be important to devote sufficient time to negotiations on pending issues. A balance must be achieved between the legitimate demands of land-based mineral producers and those of other countries.

72. He congratulated the Secretariat on the technical and logistic support it had provided for the Conference. He was convinced that the Secretariat would prepare the necessary studies in good time to facilitate negotiations on pending issues, and for that purpose it might usefully obtain information from the land-based mineral producing countries.

73. Mr. AL JUFARI (Qatar) congratulated the President on the proposed programme of work for the eleventh session of the Conference. On behalf of the group of Asian States, he expressed the hope that the eleventh session would be the last session, even if it should prove necessary to prolong it for one or even two weeks in order to adopt the convention.

74. The PRESIDENT, referring to the first stage, said that as some delegations had proposed extending it from three to four weeks and others had proposed reducing it to two weeks, he considered that the Collegium had made the right choice. The second stage was necessary to allow time for the general debate in plenary session and also to give the secretariat time to issue the necessary documents. As some delegations had pointed out, the most important issue in the third stage was the date on which rule 33 of the rules of procedure would become applicable. Once that date had been established, delegations could submit amendments, and during the fourth stage it would be the duty of the President under rule 37 to make every effort conducive to the attainment of general agreement thereon. After 10 days, stage five would begin; and at that time either there would be general agreement or voting would have to start. In respect of the vote on the convention as a whole, rule 39, paragraph 2, of the rules of procedure would of course apply; but beforehand it would be necessary to deal with the amendments. The delegations of Norway and Peru had proposed that some flexibility might be needed with regard to the time-limits set in the fifth stage, and he considered that that proposal was generally acceptable.

75. Mr. WARIOBA (United Republic of Tanzania) said that he could not accept even the implications of extending the eleventh session. The time needed to allow for greater flexibility might be taken from the third stage, since there was no need to decide whether rule 33 was applicable; it would apply automatically once the second stage was over. Thus, a time-limit earlier than 13 April could be set for submitting amend-

ments. In any event, what was essential for success was determination rather than the availability of time.

76. The PRESIDENT said that he agreed that the principal issue in the third stage was when, rather than whether, rule 33 would become applicable. He would therefore redraft the paragraph to that effect.

77. Mr. EVENSEN (Norway) stressed that he had not definitely proposed an extension of the session, but merely that provision be made for the possibility of extending the session if the voting procedure had begun but had not been completed by 30 April.

78. Mr. ARIAS SCHREIBER (Peru) appealed to the representative of the United Republic of Tanzania not to oppose the proposal by the representative of Norway.

79. Mr. JAGOTA (India) said that there were two options: either to provide for the possibility of an extension, as proposed by the representative of Norway, or to merge the fourth and fifth stages into a single stage, without fixing a particular date for the commencement of the fifth stage. The first sentence under the heading "Fifth Stage" could be deleted, and the second sentence could be amended to read: "Before 30 April, the Conference will adopt . . .". Those changes would provide the necessary flexibility.

80. The PRESIDENT pointed out that the Conference would not save time by merging the fourth and fifth stages. If amendments were tabled, and their sponsors insisted on them, then in accordance with the "Gentlemen's Agreement", rule 37 would apply, and there would have to be a ten-day search for general agreement before voting could begin.

81. Mr. CALERO RODRIGUES (Brazil) said that he supported the President's proposed programme of work. The President had made it quite clear that if amendments had to be received by 13 April, it would be impossible to vote on them before 23 April. However, rule 39, paragraph 2, specified that the convention could not be put to the vote less than four days after the adoption of its last article; and he did not think that there would be time for the Conference, between 23 and 30 April, both to vote on all the articles which required a vote and to observe the four-day waiting period. The proposal of the representative of Norway was therefore most useful, and he joined the representative of Peru in calling on the representative of the United Republic of Tanzania to reconsider his objection.

82. MR. WARIOBA (United Republic of Tanzania) said that he would withdraw his objection as there seemed to be a general feeling in support of the Norwegian proposal; but he considered that the proposal proved his point that the programme of work was rather unrealistic.

83. Mr. STAVROPOULOS (Greece) said that he supported the proposal of the representative of Norway, but considered that it was perhaps wrong to make an explicit reference to voting. He would prefer a more general wording for the proposal, such as: "If the Conference is about to complete the fifth stage . . .".

84. The PRESIDENT said that he would redraft the text relating to the fifth stage along the following lines: "In the case that on 30 April the Conference has commenced the fifth stage of the programme of work but has not been able to finish it, the General Assembly will be asked to give the Conference the authority to extend the session in order to complete the fifth stage of its work". If he heard no objection, he would take it that the Conference wished to adopt the draft programme of work for the eleventh session of the Conference (A/CONF.62/L.80), as orally amended.

It was so decided.

Other matters

85. Mr. MALONE (United States of America) said that he was obliged to take the floor because of a statement by the representative of Cuba which was not germane to the question

of the programme of work for the eleventh session of the Conference. The representative of Cuba had referred to a recent incident in the Gulf of Sirte, and had characterized it in terms which the United States delegation found erroneous and without foundation. On 19 August 1981 two United States naval aircraft flying in international airspace some 60 miles off the Libyan Arab Jamahiriya coast had been attacked by two Libyan military aircraft. In exercise of the right of self-defence they had returned the fire, and the two Libyan aircraft had been shot down. At the time of the unprovoked Libyan attack the United States aircraft had been participating in a routine naval exercise which had been announced well in advance in accordance with established international practice. Libyan claims to the airspace and the waters in which the incident had taken place were without foundation in international law and practice, and were contrary to the right of all countries to freedom of navigation on the high seas and freedom to fly their aircraft in the international airspace above the high seas. All responsible nations had an interest in ensuring that that right was respected.

86. Mr. TORRAS de la LUZ (Cuba) stressed that his delegation's reference to the recent incident between the United States and Libya had been intended merely to illustrate the need for a convention to avoid such incidents arising from the claims and counter-claims of sovereign States. He had not sought to enter into the details of the incident between the United States and Libya; had he wished to analyse it, he might have referred to the statement by the United States Secretary of State who had acknowledged that he had been aware that the exercise might lead to an incident with Libya.

87. Mr. MUNTASSER (Libyan Arab Jamahiriya) said that he had not wished to speak of the United States aggression at the present meeting, but was obliged to reply to the statement by the United States representative.

88. Firstly, Libya had taken measures in the Gulf of Sirte to defend its territorial integrity and internal security, after a long series of acts of provocation and violations of its national airspace and territorial waters, concerning which it had protested to the United States and the United Nations. Secondly, the incident should be viewed in the broader context of a history of provocation and the deterioration of relations between Libya and the United States. Thirdly, the Libyan Arab Jamahiriya was one of many countries which had extended their territorial waters, either for national security reasons or for economic reasons. Countries which had done so for economic reasons included the United States itself. Fourthly, the statement by the representative of the United States was in contradiction with that of the United States Secretary of State, who had acknowledged that the purpose of the military exercise was to provoke Libya. Finally, the international community, through the Organization of African Unity, the Arab League and many other organizations, had denounced the United States aggression. The Conference itself had received a communiqué from the group of Arab States denouncing the aggression.

89. Mr. FOROUTAN (Iran) said that he associated himself with the comments by the representative of the Libyan Arab Jamahiriya and Cuba on the regrettable incident in Libyan territorial waters. While the Conference was working to codify the law of the sea, the United States was carrying out provocative actions in various parts of the world. On what grounds was the United States carrying out military exercises thousands of miles from its own territory?

90. He wished to place on record his deep concern at such provocative acts.

Closure of the session

91. Following an exchange of courtesies, the PRESIDENT declared closed the tenth session of the Third United Nations Conference on the Law of the Sea.

The meeting rose at 6.15 p.m.