

Third United Nations Conference on the Law of the Sea

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167th Plenary meeting

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their resources. The production ceiling set in article 151, paragraph 2 (b) of the draft convention was a makeshift but it also constituted a serious threat because, according to the study in document A/CONF.62/L.84, there was a danger of it producing an abundance of cobalt and manganese. Specific measures for those two metals must be provided under article 151, paragraph 2 (f).

54. It had been said that seven Powers should have a permanent seat on the Council as major producers, but the same argument could be used in favour of giving a permanent seat to land-based producers who would suffer seriously from the exploitation of polymetallic nodules. The harmful effects of the prospect of such exploitation had already begun to be felt, and developing countries were having increasing difficulty in finding capital for mining. Stocks were piling up and no danger of shortages was perceptible in either the short or the long term. Land-based producers had responded to the consumers' call by replenishing strategic reserves and by building up other stocks at their own expense. So why were investors in the sea-bed in such a hurry?

55. His delegation supported the proposal (WG.21/Informal Paper 20) to prohibit unfair economic practices which were likely to harm both the principle of equality of treatment and

the land-based producers of minerals in the developing countries. It would have liked the draft convention to reflect in precise terms the idea that sea-bed production should not receive more favourable treatment than land-based production, particularly in respect of financing and marketing.

56. As for Second Committee matters, he reiterated that article 21 should be amended to reinforce the security of coastal countries with respect to the passage of warships through their territorial seas, and articles 62, 69 and 70 to harmonize and affirm more clearly the rights of land-locked and geographically disadvantaged countries. His delegation also requested the deletion of article 71 and supported the criterion of distance for determining the outer limit of the continental shelf.

57. As for participation in the convention, it considered the compromise proposals in A/CONF.62/L.86 to be a valid basis for agreement, but thought that national liberation movements should be full participants, as proposed by the Organization of African Unity and the Group of 77.

The meeting rose at 9.30 p.m.

167th meeting

Wednesday, 7 April 1982, at 3.20 p.m.

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

Organization of work

1. The PRESIDENT said that in the third stage of its programme of work the Conference would have to decide the date on which rule 33 of the rules of procedure would become operative, i.e. the date on which amendments could be submitted to the secretariat. On behalf of the Collegium, he proposed that the rule should become operative as from Thursday, 8 April and that amendments should be submitted by 6 p.m. on Tuesday, 13 April. If there was no objection, he would take it that the Conference agreed to adopt those dates.

It was so decided.

2. The PRESIDENT recalled that the draft convention, the draft resolutions and the draft decision contained in documents A/CONF.62/L.78,¹ A/CONF.62/L.93 and Corr.1 and A/CONF.62/L.94 constituted the only proposals against which amendments could be moved. Furthermore, delegations should bear in mind that the problems of ocean space were closely interrelated and needed to be considered as a whole. Amendments to one part of the draft convention could have drastic implications for the whole. For that reason, work had been proceeding on the basis of a package deal. He also recalled that in accordance with the "Gentleman's Agreement" contained in the appendix to the rules of procedure, the Conference should make every effort to reach agreement on substantive matters by way of consensus and there should be no voting on such matters until all efforts at consensus had been exhausted. Accordingly, before the Conference could vote on any amendments it would have to decide that all efforts at reaching general agreement had been tried and proven unsuccessful.

3. In accordance with the programme of work contained in document A/CONF.62/116,¹ delegations would be given an opportunity in the period between 14 and 21 April to make statements on the amendments. Following rule 37, paragraph 2 (a) of the rules of procedure, he would defer the taking of votes on any amendments submitted for a period of eight calendar days. During that period he would make every effort, with the assistance of the Collegium and of the General Committee, as appropriate, to facilitate the achievement of general agreement and would report to the Conference in plenary meeting with his recommendations. In accordance with rule 37, the Conference would have to determine no later than Friday, 23 April, whether all efforts at reaching general agreement with regard to the draft convention as a whole, i.e. including the draft resolutions and draft decision, had been exhausted. After that determination had been made, all the amendments which had been properly submitted and were still outstanding would be put to the vote following the numerical order of the articles of the draft convention or of the draft resolutions and draft decision before the Conference. The provisions of rule 44 would be applied in connection with that procedure. He felt confident that the Conference would be able to avoid voting on any amendments and that it would be possible to achieve the collective goal of adopting the draft convention by consensus by 30 April 1982.

4. Mr. MANANSALA (Philippines), referring to the decision just taken by the Conference concerning the application of rule 33, said that the 28 sponsors of the proposal dealing with the innocent passage of foreign warships through the territorial sea regretted that the Conference had been unable to solve that problem; over 80 delegations had expressed concern about the issue, which should be the focus of attention with a view to finding a final solution within the set time-limit.

5. Mr. MAZILU (Romania) said that there were some substantive matters which should be taken into consideration in

¹ See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XV (United Nations publication, Sales No. E.83.V.4).

connection with the application of rule 33. For example, it was necessary to consider ways in which effective negotiations could be carried out on the innocent passage of foreign warships through the territorial sea. It would be unusual if so vital an issue were not negotiated and resolved within the framework of the Conference, which should take full account of the fact that more than 80 delegations had raised the issue and 47 countries had called for negotiations during the plenary debates. Failure to hold such negotiations would have serious negative implications, not only for the future work of the Conference but also for the adoption of the convention itself. In order to avoid such consequences his delegation once again appealed to all delegations to demonstrate political will and to undertake effective negotiations to settle the issue. At the same time, his delegation would welcome clarification concerning the procedure to be followed in that regard.

6. The PRESIDENT explained that the fact that rule 33 would become operative as from Thursday, 8 April did not mean that the Conference should put a stop to its efforts to promote general agreement and move closer to a consensus. The Chairman of the Second Committee stood ready to give delegations all the assistance necessary in the coming weeks with a view to finding a satisfactory solution to the question.

7. Mr. KOROMA (Sierra Leone) said that the overwhelming majority of delegations considered that document A/CONF.62/L.93/Corr.1 did not reflect the consensus achieved thus far. Document A/CONF.62/L.93 had not reflected the compromise solution proposed by the President. That solution had been eroded in the current wording of article 156, paragraph 3.

8. His delegation therefore proposed that the negative formulation in that paragraph should be deleted, since it was prepared to negotiate the question of granting the representatives of national liberation movements the status of observers in the Authority. The President had said that delegations would be entitled to submit amendments to the draft article under rule 33, but that was not the position adopted by the Conference during the deliberations on that point. In his view, paragraph 3, read in isolation, did not reflect the understanding reached on the issue.

9. The PRESIDENT said that the wording of article 156, paragraph 3, contained in document A/CONF.62/L.93/Corr.1 faithfully reproduced the text of the paragraph which he had suggested in the plenary, which was set forth in his report (A/CONF.62/L.86). The Collegium had made no change in that wording. He invited the delegation of Sierra Leone to meet him informally to clear up the misunderstanding.

10. Mr. KOZYREV (Union of Soviet Socialist Republics) said that at recent meetings substantial progress had been made towards the adoption of the convention on the law of the sea, thanks to compromise formulas that had made it possible to solve the three questions that had long been awaiting solution. The memorandum issued by the Collegium on changes incorporated in the draft convention (A/CONF.62/L.93) indicated that the reports on the question of participation in the convention, on issues relating to the Tribunal,

and on pioneer investment in mineral exploitation formed an integral whole and should be adopted at the same time. It was for that reason that his delegation could support, in general terms, the proposals formulated by the Collegium in its memorandum.

11. With regard to the application of rule 33 of the rules of procedure, it should be borne in mind that the various provisions of the draft convention had been accepted because they were closely interrelated and were the result of compromise formulas, the aim being to avoid the submission of a variety of amendments. Although there were many comments which his delegation could make on the substance of the draft convention, it might refrain from submitting amendments so that the convention could be accepted and adopted rapidly. It therefore urged all delegations to follow suit, since recourse to the procedure for the submission of amendments, after so many years of work aimed at formulating norms that could be adopted by consensus, might give rise to serious complications at the Conference. There was a risk, not only that the work would be prolonged and solutions reached by consensus after great effort lost, but also that the draft convention would no longer be acceptable to the great majority of States. Recourse to that procedure would be tantamount to playing into the hands of those who had sought to put an end to a period of co-operation and were seeking to use threats and other means of pressure.

12. Consequently, his delegation urged the President of the Conference, all the members of the Collegium, the Chairmen of the Main Committees, the Chairman of the Drafting Committee and the General Rapporteur to spare no effort to prevent that unfortunate situation from arising. It also urged all delegations to demonstrate good will and a spirit of co-operation so that the convention could be finalized on the basis of the current draft, accepting it as a whole. A convention permitting international co-operation in the development of natural resources, to the benefit of peace among States, could be adopted rapidly only by means of a compromise that took into account the interests of the various countries.

13. The PRESIDENT observed that the different parts of the draft convention were indeed interrelated, and the submission of amendments should be approached with prudence and circumspection.

14. Mr. MWANANG'ONZE (Zambia) recalled that certain questions raised by the Group of 77 had been omitted from the memorandum (A/CONF.62/L.93), and he inquired whether their consideration would be governed by rule 33.

15. The PRESIDENT said that it had not been possible to include the proposals formulated by the Chairman of the Group of 77 because they had been submitted too late and did not satisfy the criteria set forth in document A/CONF.62/62.² Nevertheless, he would continue holding consultations on the matter with a view to submitting appropriate proposals.

The meeting rose at 4.05 p.m.

² *Ibid.*, vol. X (United Nations publication, Sales No. E.79.V.4).