

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

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## **183<sup>rd</sup> Plenary meeting**

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# PLENARY MEETINGS

## 183rd meeting

Wednesday, 22 September 1982, at 10.50 a.m.

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

### Organization of work

1. The PRESIDENT said that the main purpose of the resumption of the eleventh session was to enable the Conference to complete the processing of the Drafting Committee's recommendations. The Conference would also have to decide on a venue for the signing of the Final Act, the Government of Venezuela having informed the Secretary-General that it was withdrawing its invitation to the Conference to sign the Final Act at Caracas (A/CONF.62/L.153).
2. The Collegium had requested that the draft final act prepared by the secretariat should be issued in all the languages of the Conference. He would be grateful if delegations could submit to him, in writing, any comments or suggestions concerning that draft.

### Report of the Chairman of the Drafting Committee

3. Mr. BEESLEY (Canada), speaking as Chairman of the Drafting Committee, said that at its intersessional meetings in Geneva in July and August 1982, the Drafting Committee had completed the work assigned to it. It had made recommendations (A/CONF.62/L.152 and Add.1-22) concerning Parts XVI and XVII, annexes III, IV, VI, VII, VIII and IX, the preamble, article I and draft resolution II. It had also made recommendations concerning pending items on all parts of the Convention. The Drafting Committee had approved certain proposals submitted by the co-ordinators of the language groups, even though those proposals had not, at the time of the intersessional meetings, been reformulated in the type of document that was normally submitted to the Committee. It had so acted on the understanding that some of the proposals were being approved ad referendum and on the understanding that the Committee would have an opportunity at the current session to consider the proposals in their proper form.
4. Mr. ARIAS SCHREIBER (Peru), speaking on behalf of the Group of 77, said that the Group, without prejudice to and with all due respect for the positions of its members, realized that opinion was heavily in favour of the signing and prompt entry into force of the Convention, which had established a new legal order for the rational use of ocean space as an instrument of justice, peace, development and co-operation among States. At the same time, the Group of 77 reiterated that any unilateral action or multilateral agreement relating to activities in the international sea-bed area that departed from the régime envisaged in the 1970 Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction<sup>1</sup> and the rules agreed upon by the Conference would lack international validity and would lead to the adoption of appropriate measures to defend the interests of all States with regard to the use of that area as the common heritage of mankind.

<sup>1</sup> General Assembly resolution 2749 (XXV).

5. The Group of 77 intended to urge the General Assembly to allocate the necessary resources to enable the Preparatory Commission and the International Tribunal of the Law of the Sea to discharge their mandate under the Convention effectively and expeditiously.

6. The Group of 77 was grateful to the Secretariat for its valuable assistance to participating States in the past; it trusted that that co-operation would again be manifested in the studies and measures necessary for the implementation of the resolutions adopted by the Conference on 30 April 1982<sup>2</sup> and in the subsequent performance of the functions entrusted to the Secretary-General by the Convention.

7. He reported that the Group of 77 had begun considering the question of the applicability of the Convention when it entered into force. In negotiating and adopting the Convention, the Conference had borne in mind that the problems of ocean space were closely interrelated and had to be dealt with as a whole. The "package deal" approach ruled out any selective application of the Convention. According to the understanding reached by the Conference from the outset and in conformity with international law, no State or group of States could lawfully claim rights or invoke the obligations of third States by reference to individual provisions of the Convention unless that State or group of States were themselves parties to the Convention. States which decided to become parties to the Convention would likewise be under no obligation to apply its provisions vis-à-vis States that were not parties. That held true both for the new rules laid down by the Convention for areas under national jurisdiction (inland waters, territorial sea, contiguous zone, exclusive economic zone, continental shelf, archipelagic waters and straits used for international navigation), and for the régime instituted, by virtue of the Convention and the relevant resolutions adopted by the Conference, for the use of the area of the sea-bed beyond the limits of national jurisdiction.

8. The Group of 77 had not yet concluded its consideration of the question of applicability of the Convention, and would make a further statement at a later date.

9. Mr. KOLOSOVSKY (Union of Soviet Socialist Republics) said that the Soviet Union believed that the Convention could make a major contribution to the strengthening of peace and co-operation among States. His Government had therefore decided to sign the Convention when it was opened for signature in December 1982 and hoped that other States would do likewise, so that the Preparatory Commission could begin its work by February or March 1983.

10. Speaking on behalf of the group of Eastern European (Socialist) States, he expressed full support for the statement made on behalf of the Group of 77. Those States appealed to all participants in the Conference to sign and ratify the Convention so that it could enter into force as soon

<sup>2</sup> See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVI, 182nd plenary meeting.

as possible. They were against any agreement to use the oceans or their resources in violation of the provisions of the Convention or any attempt to circumvent those provisions; they therefore strongly condemned the agreement concluded on 2 September 1982 by the United States of America and three Western States. That agreement was in violation of the provisions of the Convention and detrimental to the interests of other States with regard to areas of the sea most likely to yield mineral resources. The international community was fully entitled not to recognize that agreement, or any similar agreement for that matter, which had no legal force. While States which refused to become parties to the Convention would not have the obligations imposed on States parties, they would also be denying themselves the advantages and privileges accruing to States parties.

11. Mr. JUNG (Federal Republic of Germany), speaking on behalf of the delegations of France, the United Kingdom, the United States and the Federal Republic of Germany, said that those delegations reserved the right to respond at some later time to the statement made on behalf of the Group of 77. As to the statement made on behalf of the group of Eastern European (Socialist) States, the delegations on whose behalf he was speaking wished to state that the interim agreement signed on 2 September 1982 by France, the United Kingdom, the United States and the Federal Republic of Germany was designed to encourage mining companies to settle, by voluntary procedures, any disputes which might arise concerning the overlapping of exploration sites.

12. It had been recognized within and outside the Conference that the elimination of overlapping in areas where pioneer explorers were conducting deep-sea operations was a prerequisite for further exploration for polymetallic nodules. There was a real likelihood of such overlapping in areas of the deep-sea bed where explorers had been, and wished to con-

tinue, prospecting and exploring. France, the United Kingdom, the United States and the Federal Republic of Germany had (like some other countries) enacted interim legislation in order to ensure that, pending the adoption of generally agreed arrangements, such operations were conducted in an orderly and peaceful manner, and the solution of the problem of overlapping was a necessary corollary of such legislation. The main purpose of the agreement signed on 2 September was to encourage explorers who had applied to the parties under that interim legislation to solve the problem of overlapping by voluntary procedures. The agreement also made provision for exchanges of information on the procedures for examining such applications. The parties had agreed to have further consultations on those matters.

13. Those limited arrangements were so framed as not to prejudice the position of any of the parties in relation to the Convention. They did not prejudice the decision that France, the United Kingdom and the Federal Republic of Germany had yet to take with respect to participation in the Convention. Finally, the arrangements were compatible with the documents adopted by the Conference.

14. Mr. CLINGAN (United States of America) noted that reference had been made to the applicability of the Convention. It could not be denied that many provisions of the Convention reaffirmed pre-existing international rights. The argument that the Convention established only new rights was untenable. The United States believed that the pre-existing international rights continued to exist.

15. His delegation reserved the right to make a more detailed statement at a later date.

*The meeting rose at 11.25 p.m.*

## 184th meeting

Friday, 24 September 1982, at 3.40 p.m.

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

### Report of the Chairman of the Drafting Committee

1. Mr. BEESLEY (Canada), speaking as Chairman of the Drafting Committee, recalled that the Conference must take a decision on the Drafting Committee's recommendations which it had considered informally on 22, 23 and 24 September and which dealt with the following provisions of the Convention: Preamble; Part I; Part II: articles 10, 19, 22, 26; Part III: articles 34, 36, 37, 42, 45; Part IV: article 47; Part V: articles 61, 62, 63, 66, 69, 70, 71, 74; Part VI: articles 76, 77, 79, 83, 85; Part VII: articles 91, 94, 96, 109; Part IX: article 122; Part X: article 127; Part XI: articles 133, 137, 138, 142, 144, 150, 151, 155, 156, 160, 161, 162, 168, 171, 188, 189; Part XII: articles 194, 200, 201, 202, 208, 211, 212, 216, 217, 218, 219, 220, 221, 223, 227, 230, 231, 232, 235, 236; Part XIII: articles 240, 241, 244, 246, 249, 252, 253, 254, 261, the title of section 5, article 263; Part XIV: articles 266, 267, 268, 269, 271, 275, 276, 277; Part XV: articles 286, 288, 294, 297; Part XVI; Part XVII: articles 308 to 317, 319, 320; annex I; annex II: articles 2, 3, 5 and 6; annexes III and IV; annex V: articles 2 and 3; annexes VI, VII, VIII and IX and paragraph 5 (h) and (i) of resolution I and paragraphs 8 and 9 of resolution II appearing in annex I of the Final Act (A/CONF.62/121). In addition, other proposals had been made by certain delegations concerning articles 56, 218 and 283 and annex V, article 10. The Chairman would make sure that the report of the

Drafting Committee should reflect in the addenda to document A/CONF.62/L.152 all the proposals which had been made.

2. He thanked members of the Drafting Committee, the representative of the Secretary-General and the Secretary of the Committee. He also paid tribute to the quality of the efforts of members of the language groups and to the dedication and competence of the revisers who had participated in those groups.

3. Replying to a question from the representative of Israel, he said that, on the basis of the consultations he had had with the co-ordinators of the six language groups it seemed that the titles of the parts, sections and articles of the Convention contributed to the understanding of and clarified the meaning of the provisions considered.

4. The PRESIDENT proposed that all the proposals listed by the Chairman of the Drafting Committee should be adopted as a whole.

5. Mr. JUNG (Federal Republic of Germany) recalled that the representative of Iraq had not submitted his proposal concerning article 70 in writing. The proposal, however, introduced a change of substance. His delegation could not take a decision on the matter as long as it did not have a written text.

6. Mr. HATTINGA VAN'T SANT (Netherlands) supported the statement made by the representative of the