

# **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.15**

## **15<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 V (Summary Records, Plenary, General Committee, First, Second and Third Committees, as well as Documents of the Conference, Fourth Session)*

# 15th meeting

Monday, 22 March 1976, at 10.30 a.m.

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

## Organization of work

*The Chairman invited Mr. Wolf (Austria), as Chairman of the Group of Land-Locked and Geographically Disadvantaged States, to participate in the discussion.*

1. The CHAIRMAN said that he had met with the Chairmen of the three Main Committees on the progress of work and had been informed that the First Committee had dealt with the descriptions of certain terms used in the annex and was dealing with the system of obtaining contracts. The Second Committee had considered the first 13 articles; with regard to its agreed procedure, it was understood that silence implied agreement with the single text as a negotiating basis. The Chairman of the Second Committee had expressed doubt that the initial consideration of the text would be completed in four weeks, as had originally been hoped. The Chairman of the Third Committee had stated that articles 1-15 on marine pollution had been passed over, since they were not controversial, and that the Committee was now working on article 19. The first six articles on scientific research had been covered. He expected to have a revised text on those two subjects in five or six weeks.

2. Mr. ENGO (United Republic of Cameroon), speaking as Chairman of the First Committee, said the rule that silence implied consent had also been adopted in the First Committee. He was assembling ideas which appeared to reflect consensus on certain subjects and convening smaller negotiating groups to help him to reduce to writing the growing consensus. The system of obtaining contracts was one of the most difficult subjects before the First Committee. The Committee would start concentrating on solutions, rather than analysing the problems, at its next meeting.

3. Mr. AGUILAR (Venezuela), speaking as Chairman of the Second Committee, said that most of the statements made in his Committee had been confined to the article under consideration. It had been agreed that none of the amendments which were submitted would be considered formal at the current stage. Silence was indeed interpreted as signifying agreement with the negotiating text in all cases. Accordingly, when an amendment was submitted, delegations which were in favour of it were bound to express their support so that the Chairman might determine the degree of support each amendment enjoyed. Silence with regard to an amendment denoted satisfaction with the original single negotiating text. Since it now seemed that it would take the Committee at least six weeks to deal with the work assigned to it, it would be advisable to prepare a schedule indicating what would be the best way to make maximum use of the available time. The schedule would not have to be rigidly adhered to but would serve more as a guideline.

4. Mr. YANKOV (Bulgaria), speaking as Chairman of the Third Committee, said that articles 1-15 on marine pollution had been passed over for two basic reasons—first, because they had been discussed and negotiated in Caracas and Geneva, and, secondly, because they were less controversial, although they could not be called non-controversial. The Committee's understanding was that that in no way implied the existence of a formal agreement on articles 1-15. The Committee had considered articles 1-6 on scientific research; brief statements had been made and amendments had been presented in treaty language. Discussions had been held in small open-ended groups and attempts had been

made to use the intersessional work done since the Geneva meeting. A revised text would probably be ready in five or six weeks. He suggested that the General Committee should attempt, under the guidance of its Chairman, to establish a common time-table for all three Committees so that all the revised texts could be issued at the same time.

5. Mr. NJENGA (Kenya), speaking as Chairman of the African Group, pointed out that, as the Committees were meeting twice daily, little time was left for the various groups to exchange views. He proposed that one half-day should be left free each week to permit meetings of the various groups.

6. Mr. UPADHYAY (Nepal), in his capacity as Chairman of the Group of 77, supported the proposal.

*The proposal was adopted.*

7. Replying to a question put by Mr. OXMAN (United States of America), the Chairman said that nothing would preclude the holding of intergroup consultations during the time thus set aside.

8. Mr. OXMAN (United States of America) expressed concern at the comments he had just heard concerning changes in the projected time-table, which created the risk that the session might end without participants' having any clear idea of whether they had progressed to the stage where a generally accepted convention was within reach. His delegation favoured the target of four weeks initially set.

9. Mr. ZEGERS (Chile) suggested that the Chairman of the General Committee, together with the Chairmen of the three Main Committees, should prepare a joint time-table for submission to the General Committee at its next weekly meeting.

10. Mr. ENGO (United Republic of Cameroon), speaking as Chairman of the First Committee, said it was entirely possible that the Committees would not all progress at the same speed, and it would therefore be unrealistic to set a common deadline for them. He suggested that the General Committee should not set a target date but that the Chairman should be apprised of the situation on a weekly basis and should determine the appropriate time for the Chairmen of the Committees to report on the stage reached.

11. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished him to prepare, together with the Chairman of the Main Committees, a tentative schedule for presentation to it at its next meeting.

*It was so decided.*

12. Mr. ARIAS SCHREIBER (Peru) supported the Chairman's proposal. The only way to reach a general agreement was to examine the single negotiating text carefully, and thoroughness was more important than speed.

13. Replying to a question put by Mr. MHLANGA (Zambia), the CHAIRMAN said that draft articles of the single negotiating texts which were subjected to criticism would not thereby cease to form part of the negotiating texts.

14. If there was no objection, he would take it that the Committee agreed that the debate on the settlement of disputes should begin on 5 April following the General Committee meeting and last two days and that the date of the debate on the peaceful uses of the ocean space would be determined at a later date.

*It was so decided.*

15. The CHAIRMAN said that, in his capacity as President of the Conference, he had received the following letter<sup>1</sup> dated 17 March 1976 from the Chairman of the Group of Land-Locked and Geographically Disadvantaged States:

“On behalf of the Group of Land-Locked and Geographically Disadvantaged States—the present membership of which is listed in the annex to this letter—I have the honour to inform you of the basic approach of that Group of States toward the forthcoming negotiations within the United Nations Conference on the Law of the Sea.

“It is the view of the Group of Land-Locked and Geographically Disadvantaged States that these negotiations should be conducted speedily and efficiently and with the widest possible participation in order to arrive at just solutions of all outstanding issues within the framework of a single convention on the law of the sea. The single negotiating texts are a useful procedural device and can serve as a basis for negotiations. The Group wishes to emphasize, however, that a number of important changes will be necessary in the single negotiating texts, as these texts do not take account of the legitimate rights and interests of the States members of the Group as set forth in the various proposals submitted by the Group, proposals relating *inter alia* to the rights of land-locked and geographically disadvantaged States in the proposed economic zone, the right of free access of land-locked States to and from the sea, the adequate representation of land-locked and geographically disadvantaged States in the organs of the International Authority to be established and the sharing of revenues. In the view of the Group appropriate procedures providing for the possibility of modifying and/or amending the single negotiating texts are therefore of particular importance.

“As will be recalled, the Group of Land-Locked and Geographically Disadvantaged States at the closing of the Geneva session of the Conference appealed to all States not to take any unilateral action or other measures which would extend national jurisdiction beyond 12 nautical miles before the Third United Nations Conference on the Law of the Sea has completed its work. It is with profound regret that the Group takes note that this appeal has not been universally heeded. The Group therefore reiterates that appeal and emphasizes that any such unilateral action or measures are not conducive to reaching general agreement on the unsettled issues of the law of the sea.

“The Group of Land-Locked and Geographically Disadvantaged States fully shares the views expressed by the Secretary-General of the United Nations in his statement at the 57th plenary meeting on 15 March 1976, the opening meeting of the session, that “success will only be achieved if all nations recognize that it is in the long-term interests of each one that we succeed in establishing a law of the sea that will be respected by all.” Therefore, the rights and interests of all States will duly have to be taken into account in the course of the forthcoming deliberations and in a future convention on the law of the sea. Such a convention can only serve its purpose if it is accepted by every segment of the international community and widely ratified.

“The Group of Land-Locked and Geographically Disadvantaged States wishes to stress that it is ready to engage in serious negotiations on all questions at any time and in whatever form considered appropriate in order to

bring the Third United Nations Conference on the Law of the Sea to a successful conclusion in the very near future.”

16. The members of the Group listed in the annex to the letter were as follows: Afghanistan, Austria, Bahrain, Belgium, Bhutan, Bolivia, Botswana, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Central African Republic, Chad, Czechoslovakia, Ethiopia, Finland, Gambia, German Democratic Republic, Germany (Federal Republic of), Holy See, Hungary, Iraq, Jamaica, Jordan, Kuwait, Laos, Lesotho, Liechtenstein, Luxembourg, Malawi, Mali, Mongolia, Nepal, Netherlands, Niger, Paraguay, Poland, Qatar, Rwanda, San Marino, Singapore, Sudan, Swaziland, Sweden, Switzerland, Uganda, United Arab Emirates, Upper Volta, Zaire and Zambia.

17. He had been requested to circulate the letter as an official document of the Conference. That request presented certain difficulties. To circulate comments on the nature of the single negotiating texts might open a general discussion, and it had been agreed that the general debate would not be reopened and that the main purpose of the session was to proceed to informal and serious negotiations. He emphasized that the single negotiating texts constituted a procedural device; they were not compromise texts, but were a basis for negotiation.

18. With regard to the extension of national jurisdiction, he recalled that at the end of the preceding session he had expressed concern over unilateral action and had said that such action might militate against reaching a general agreement at the Conference.

19. He had no doubt that, like other groups, the land-locked and geographically disadvantaged countries were earnest in their intention to negotiate seriously. In bringing the request for official circulation of the letter to the attention of the General Committee, he wished to emphasize the need to prevent the unnecessary proliferation of official documents.

20. Mr. WOLF (Austria), speaking as Chairman of the Group of Land-Locked and Geographically Disadvantaged States, said that the purpose of his letter to the President of the Conference had been to confirm the position consistently held by the Group regarding its willingness to contribute to a speedy conclusion of the task entrusted to the Conference. In the view of the Group that could not, however, have been stated without, at the same time, commenting on the texts intended to serve as a basis for the negotiations. It had been felt that the beginning of the session would be the appropriate moment to point out that those texts did not take account of the proposals submitted in various forms by the members of the Group, thus explaining why amendments to the texts would be proposed by the Group.

21. As the single negotiating texts were already referred to in official documents of the Conference—namely, the summary records—he could see no harm whatsoever from their being mentioned in a letter transmitted on behalf of a certain group of States to the President of the Conference to be circulated as an official document. The Group of Land-Locked and Geographically Disadvantaged States had certainly no intention of opening a general discussion of those texts or of according them any kind of official status.

22. The Group considered that any State or group of States participating in the Conference had the right to have a document which was pertinent to the work of the Conference officially circulated—even more so as the letter in question expressed the unanimous views of approximately one third of the States participating in the Conference.

23. Mr. BAVAND (Iran) felt that the General Committee was not the proper forum for discussing matters of sub-

<sup>1</sup> The text of the letter has been included *in extenso* in the summary record in accordance with the decision taken by the Committee.

stance. He said that the Conference should accommodate the ideas of all countries, and a group which claimed to represent the geographically disadvantaged countries should represent all of them. His own delegation had not been permitted to take part in the meetings of the Group of Land-Locked and Geographically Disadvantaged States. He considered the membership list read out by the Chairman to be elective, politically oriented and discriminatory.

24. Mr. ENGO (United Republic of Cameroon) said that his country, although geographically disadvantaged, had not been consulted on the letter and could not agree to its circulation as an official document. There was a danger that other groups would also seek to have documents circulated officially. Any delegation or group was able to distribute papers, provided that it did so at its own expense. Since the letter had been read out by the Chairman, it would be reflected in the summary record, and there was no need to circulate it as a separate document of the Conference.

25. Mr. OGUNDERE (Nigeria) said that the problems of land-locked and geographically disadvantaged countries would continue to be among the major problems to be solved. His country had always been sympathetic to the interests of land-locked States and had done much to help them. The cry for help which their letter represented should not be ignored, and their interests, as well as those of all groups and of the international community as a whole, should be taken into account.

26. He urged, however, that the land-locked and geographically disadvantaged countries should not insist that essentially bilateral problems should be dealt with in a multilateral context. His delegation had no basic objection to the circulation of the letter, as long as his remarks were recorded.

27. The CHAIRMAN inquired whether the Group of Land-Locked and Geographically Disadvantaged States would withdraw its request for the official circulation of the letter in a separate document on the understanding that it would appear in the summary record.

28. Mr. TÜNCEL (Turkey) said that the letter should be circulated as a document of the Conference. Delegations were entitled to express their views, and other delegations had the right to hear them. His own delegation was not afraid of a general debate. Furthermore, he agreed with the contents of the letter.

29. Mr. ZEGERS (Chile) recalled that at the preceding session of the Conference, before the appearance of the single negotiating text, his delegation had inquired whether participants could circulate their views on the text. The Chairman had stated that, since the text was informal, those views should not be circulated formally, and a decision had been adopted to the effect that the comments of delegations could not be circulated as Conference documents. If that decision was still valid, it should be applied in the present instance. The letter was an important document, and it could be incorporated in the summary record.

30. The CHAIRMAN said that the decision was still in force.

31. Mr. ARIAS SCHREIBER (Peru) said that to circulate the letter as an official document would be counterproductive. Other informal groups would ask for similar treatment. It was not a question of fear of a general debate or of the right of delegations to be informed, but rather a question of procedure. His delegation agreed with the representative of Chile.

32. Mr. AL-SAAD (Iraq) said that his delegation fully endorsed the letter read out by the Chairman and insisted that it should be circulated as an official document of the Conference. The contents of the letter should be taken into

account in the three Main Committees of the Conference. Reproduction of the letter would not substantially increase the number of documents. His delegation was fully prepared to receive similar documents from other groups with legitimate interests. There were many precedents for the circulation of the views of delegations or groups of delegations as official documents.

33. The CHAIRMAN said that other delegations had submitted much more specific comments since the preceding session, but their publication had not been authorized in view of the decision adopted in plenary. Accordingly, the matter would have to be brought before the plenary if that decision was to be altered.

34. Mr. ZULETA (Special Representative of the Secretary-General) confirmed that at the 56th plenary meeting, on 9 May 1975, the Conference had decided that comments which Governments or delegations might wish to make on the single negotiated text should be circulated by Governments themselves and not by the Secretariat. Following the Geneva session, one delegation had requested the Secretariat to circulate a document on the single negotiating text. The Secretariat had requested an opinion from the Legal Counsel on that request and considered that it was generally valid for the interpretation of the decision adopted at the 56th plenary meeting. The Legal Counsel had stated that the Secretariat was bound by the decision of the Conference not to distribute any comments or amendments relating to the single negotiating text in any form and particularly not as Conference documents. That conclusion, in the view of the Legal Counsel, was not incompatible with the provisions concerning the duties of the Secretary-General and the Secretariat under the rules of procedure of the Conference to circulate communications from Governments on matters dealt with by the Conference when they so requested. In adopting its rules of procedure, the Conference had nowhere surrendered its prerogative to lay down by way of decisions relating to particular cases the modalities for the discharge of obligations of the Secretariat towards the Conference enunciated in a general manner in the rules themselves.

35. In view of the foregoing, the Secretariat could not assume responsibility for circulating comments on the single negotiated text unless the Conference decided that it should do so.

36. Mr. GOERNER (German Democratic Republic) said that it was useful and necessary for the Conference to know the attitude of the Group of Land-Locked and Geographically Disadvantaged States concerning the single negotiating text and the unilateral actions taken by certain coastal States. His delegation could not agree with the unusual arguments advanced against the circulation of the Group's letter as an official document, since the letter neither presented a general analysis of, nor submitted concrete amendments to, the single negotiating text. However, as a compromise, it could agree to the inclusion of the letter in the summary record of that meeting of the General Committee.

37. Mr. CALERO RODRIGUES (Brazil) said that no great harm would be done by agreeing to the request of the group of 49 land-locked and geographically disadvantaged countries to have their letter circulated as an official document, provided that such action would not interfere with the work of the Committees.

38. Mr. KOH (Singapore) expressed surprise that a simple request by 49 delegations should have aroused such controversy in the Committee. It would appear that the contents of the letter satisfied the conditions laid down in rule 20, paragraph 3, of the rules of procedure of the Conference. However, he could not agree with the views advanced by the representative of Chile and the Special Representative of the

Secretary-General concerning the decision taken at the 56th plenary meeting of the Conference. The discussion recorded in paragraphs 10-14 of the summary record of that meeting indicated clearly that the decision related only to the intersessional period because of the absence of financial provisions. His delegation was prepared to agree to the Chairman's suggestion that the letter should be reproduced in the summary record of the meeting. With regard to the comments of the representatives of Iran and the United Republic of Cameroon, he said that the Group of Land-Locked and Geographically Disadvantaged States represented only its members and was entitled to speak on their behalf. The Group did not purport to speak on behalf of other countries which might also consider themselves as geographically disadvantaged States.

39. Mr. ENGO (United Republic of Cameroon) said that his delegation had certain misgivings about circulating the letter; it considered itself the representative of a geographically disadvantaged country, and it had not been consulted. However, he failed to understand the representative of Iran's statement that the document was of questionable value because the members of the group had a certain political orientation.

40. Mr. ZULETA (Special Representative of the Secretary-General) recalled his earlier statement on the opinion of the Legal Counsel, and added that the Secretariat had responded to many requests accordingly. The Secretariat had but one view, which was to comply with any decision the Conference might take.

41. The CHAIRMAN, referring to the statement by the representative of Singapore, drew attention to paragraph 14 of the summary record of the 56th plenary meeting recording the decision that delegations should themselves assume responsibility for circulating any comments they might have on the single negotiating texts. That decision did not come under the caption concerning intersessional arrangements.

42. Mr. TREDINNICK (Bolivia) said that the views stated in the letter from the Group of Land-Locked and Geographically Disadvantaged States were of great importance, representing as they did the joint position of nearly one third of the participants in the Conference. The views of so large a group, even if put forward informally, deserved to be heard. In conclusion, he endorsed the comments made by the representative of Singapore and expressed the view that all delegations were entitled to circulate documents.

43. Mr. KNOKE (Federal Republic of Germany) expressed concern over the political aspects involved and protested against the unilateral actions taken in the intersessional period. His delegation was prepared to agree that the letter should be reproduced in the summary record.

44. The CHAIRMAN suggested that, if the reference to the single negotiating text could be deleted from the letter, there would be no further problem. He pointed out that the letter would not normally be fully reproduced in the summary record.

45. Mr. WOLF (Austria), speaking as Chairman of the Group of Land-Locked and Geographically Disadvantaged States, said that, under the circumstances, he would have to refer the matter back to the Group.

46. Mr. CZARKOWSKI (Poland) said that, from the legal point of view, all the necessary elements were present to take a decision forthwith.

47. Mr. ARIAS SCHREIBER (Peru), speaking on a point of order, said that, if one informal group was to be entitled to request the official circulation of documents, all groups should have the same entitlement.

48. The CHAIRMAN agreed, but sounded a note of caution on adopting a decision which would give every group the right to circulate documents.

49. Mr. ENGO (United Republic of Cameroon) urged that the point made by the representative of Peru should be heeded. Since the whole question would be dealt with in the record, it was necessary to conclude the matter satisfactorily.

50. The CHAIRMAN said that it would be necessary for the General Committee to meet before the normal meeting on the following Monday.

51. Mr. CZARKOWSKI (Poland) said that it should be possible to agree on the right of a group of 49 States to submit a document, but he was prepared to accept a full account of the letter in the summary record, without prejudice to that basic right.

52. The CHAIRMAN said he was afraid that the matter was not as simple as that, and that the Group of Land-Locked and Geographically Disadvantaged States would need to meet.

53. Mr. YANKOV (Bulgaria), speaking on a point of order, appealed for a definite decision on the circulation of the letter at that meeting. He felt that there was general agreement to include the letter in the summary record.

54. Mr. BAVAND (Iran) said that the representative of the United Republic of Cameroon had perhaps misinterpreted his earlier remark on the political bias of the group of land-locked and geographically disadvantaged countries.

55. Mr. WOLF (Austria), speaking as Chairman of the Group, said that it would be preferable to have the letter circulated as an official document. However, if that would create problems, the members of the Group would agree to its reproduction *in extenso* in the summary record, and would reserve the right to further action.

56. Mr. BEESLEY (Canada) said that reproducing the letter *in extenso* might give the impression that it represented the views of a larger number of States than were actually members of the Group. Opening the door in that manner might set an undesirable precedent for the General Committee.

57. Mr. JACHEK (Czechoslovakia) said he was inclined to favour the solution of reproducing the letter in the summary record.

58. Mr. MHLANGA (Zambia) said that his delegation could only reluctantly agree to that procedure.

59. Mr. ARIAS SCHREIBER (Peru) asked for confirmation that the privilege extended to the Group of Land-Locked and Geographically Disadvantaged States would be extended to all other informal groups.

60. The CHAIRMAN agreed that that would have to be the understanding. If there was no objection, he would take it that the Committee wished to have the letter reproduced *in extenso* in the summary record.

*It was so decided.*

*The meeting rose at 12.45 p.m.*