

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/C.1/L.18

Statement of activities of the First Committee

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

contracts similar to those concluded in recent years by some developing countries in their dealings with foreign companies in connexion with the development of natural resources. These contracts may assume a wide variety of forms and are given many different names (service contracts, work contracts, production sharing contracts, participation agreements, joint venture agreements, etc.) but most have one common feature, that the contractor is required to assume all costs of the operation—i.e. to contribute not only the material and technical resources, but also the financial resources. The government, on the other hand, grants the right to exploit resources in conformity with the terms of the contract which normally involve some form of sharing in the benefits.

41. In the case of the Enterprise, the system set forth in paragraph 8 (d) of annex I provides it with a stock of potentially worth-while areas, thus enabling it to negotiate arrangements of the kind referred to above. It should be noted that participation by the Enterprise in these kinds of ventures with contractors would appear compatible with the provisions of part I of the negotiating text or with the nature of the

activities for which the Enterprise is responsible, provided that the operations preserve their character as "direct" operations conforming to a formal plan of work proposed by the Enterprise and approved by the Council after review by the Technical Commission (article 28, paragraph 2 (ix) and paragraph 7 (b) of annex II). It may be noted in this connexion that under any contractual arrangement the Enterprise will continue to hold title to the mining rights and to the minerals extracted.

42. Obviously each different means of obtaining technology (through purchase, licensing, co-operative ventures, etc.) will call for commitments of differing quantities of financial resources by the Enterprise. Initially, it would be advantageous for the Enterprise to have access to existing technology already tested in actual operations by contractors. In this regard, it should be stressed that it cannot be determined at this stage whether the technology would be available and at what price, so that further exploration of possible incentives to make the technology available to the Enterprise might be required.

DOCUMENT A/CONF.62/C.1/L.18

Statement of activities of the First Committee

(Prepared by the Rapporteur of the Committee)

[Original: English]
[16 September 1976]

I. ORGANIZATION OF THE WORK OF THE COMMITTEE⁵⁸

1. During the fifth session of the Conference, held in New York from 2 August to 17 September 1976, the First Committee worked through formal meetings, informal meetings, its workshop and the negotiating group of its workshop.

2. At the outset of the session at the 25th meeting, the Committee was in general agreement that there was a need for procedures to be adopted that were not only conducive to meaningful negotiations but also provided an opportunity for all delegations to participate fully if they so desired. It was also felt by a large number of delegations that such procedures should allow for the placing on record of the results of negotiations. Following extensive informal consultations on the organization of work, the Committee, at its 26th meeting on 11 August 1976, agreed to the establishment of a workshop and the procedures related thereto.

II. WORK OF THE WORKSHOP

3. At the beginning of its 1st meeting on 9 August 1976, the workshop unanimously accepted a proposal conveyed by the Chairman of the Committee that Mr. Jagota (India) and Mr. Sondaal (Netherlands) should work as Co-Chairmen. The workshop held 13 meetings from 9 August to 8 September 1976. The Co-Chairmen prepared four joint weekly reports on the progress of work in the workshop for submission to the Committee (A/CONF.62/C.1/WR.1-4) and a final report (A/CONF.62/C.1/WR.5 and Add.1).

4. The workshop discussed the system of exploitation of the international sea-bed area, particularly article 22 of the

revised single negotiating text⁵⁹ and the related provisions in annex I on the basic conditions of prospecting, exploration and exploitation with reference to informal workshop papers Nos. 1, 2 and 3, documents referred to in paragraph 11 below and other oral submissions on that subject. The workshop later decided to undertake negotiations on the system of exploitation in a more informal *ad hoc* group open to all delegations but having a central membership of 26 delegations. This negotiating group held 12 meetings, the Co-Chairmen having reported orally to the workshop on the general progress of work in the group.

III. WORK OF THE COMMITTEE

5. Comments and observations were made on the four weekly reports of the Co-Chairmen of the workshop and the progress made in the workshop, and these are reflected in the summary records of the 27th and 29th to 32nd meetings.

6. Comments and observations were also made on the final report of the Co-Chairmen of the workshop and these are reflected in the summary record of the 34th meeting.

7. Discussions in the Committee reflected the concern over the lack of concrete results. The slow progress was attributed in part to the difficulty in finding a system of exploitation that would be acceptable to all. Some members were of the view that the differences between the approaches held by the various interest groups were considerably great, whereas other members felt that these differences were not irreconcilable. It was emphasized that a way must be found to overcome the present position. The view was also expressed that the discussions in the Committee were largely at a general level, and that some delegations merely reiterated positions

⁵⁸For the establishment and mandate of the First Committee, see *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. III (United Nations publication, Sales No. E.75.V.5), document A/CONF.62/L.8/Rev.1.

⁵⁹See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. V (United Nations publication, Sales No. E.76.V.8), document A/CONF.62/WP.8/Rev.1.

already held. It was also felt that delegations should first endeavour to concentrate on their basic differences rather than those peripheral issues that already enjoyed a certain degree of agreement, and that there was a pressing need for alternative concrete suggestions for the resolving of such differences. It was observed that the Committee spent too much time on the question of procedure and not enough on matters of substance.

8. At its 27th meeting on 13 August 1976, following several requests for a study by the Secretary-General on alternative means of financing the Enterprise and means by which the Enterprise could obtain the necessary technology to become operational, the Committee requested through the Chairman that the Secretariat should make a statement at a special meeting of the Committee describing how the Secretariat envisaged that such a study could be tackled.

9. At its 28th meeting on 17 August 1976, the Special Representative of the Secretary-General, Mr. Zuleta, in a statement to the Committee set out some basic assumptions upon which a study on alternative means of financing the Enterprise, including certain aspects on the acquisition of technology, could be made. The Committee decided to request the Secretariat to make such a study based on the assumptions set out by the Special Representative of the Secretary-General.

10. At the same meeting, at the suggestion of one representative, the Committee requested the Secretariat to prepare a study on the estimated costs of financing the Authority. This study will be prepared in time for consideration by the Committee at its next session.

11. At its 32nd meeting on 7 September 1976, the Special Representative of the Secretary-General presented to the Committee a study entitled "Alternative means of financing the Enterprise" (A/CONF.62/C.1/L.17). No discussion was held on the paper owing to the shortage of time.

12. At its 33rd meeting on 9 September 1976, the Committee paid tribute on the death of Chairman Mao Tsetung of China. Forty-two statements were made expressing condolences. The representative of China thanked delegations for their sympathy.

13. At its 34th meeting on 9 September 1976, reference was made to a letter addressed by the Group of 77 to the Chairman of the First Committee at the end of the fourth session. The content of the letter was read out and is reflected in the summary records.

14. On 9 September 1976 the Committee held an informal meeting. After an exchange of views, the consensus emerged that the question of settlement of disputes within the context of part I of the revised single negotiating text should be dealt with by the First Committee as an integral part of the mandate entrusted to that Committee. Although there was not sufficient time to deal with this question at the present session, the Committee would need to deal with it at its next session.

IV. FUTURE WORK OF THE COMMITTEE

15. At its final meetings the Committee, in addition to considering the final report of the Co-Chairmen, made an appraisal of its activities during the session and considered the best means of conducting its work in the future in a manner conducive to an early agreement on the pending issues. The Chairman expressed his hope that the Secretariat would be in a position to elaborate on some points contained in the preliminary study submitted on alternative means of financing the Enterprise. In addition, following a suggestion made in the Committee, the request for an expansion of the study by the Secretariat on the financing of the Authority was endorsed by the Committee.

16. In his concluding statement, the Chairman emphasized the need for the Committee to come to grips with the political difficulties underlining any agreement in the matters covered by the mandate of the First Committee and expressed the hope that such agreement would be secured early enough in the next session to allow the Committee to fulfil its mandate satisfactorily.

V. DOCUMENTATION

17. In addition to the documentation referred to in the last statement of activities submitted by the Rapporteur at the third session of the Conference,⁶⁰ the Committee had before it the documents relating to the fourth session of the Conference⁶¹ and a preliminary note prepared by the Secretary-General at the request of the Committee during the session, on alternative means of financing the Enterprise, that included certain aspects on the acquisition of technology.

⁶⁰*Ibid.*, vol. IV (United Nations publication, Sales No. E.75.V.10), document A/CONF.62/C.1/L.15.

⁶¹*Ibid.*, vol. V (United Nations publication, Sales No. E.76.V.8).

DOCUMENT A/CONF.62/C.1/WR.1

Weekly report by the Co-Chairmen on the activities of the workshop

[Original: English]
[12 August 1976]

1. At its 26th meeting on 5 August 1976, the First Committee accepted the proposals made by the Vice-Chairmen following their consultations concerning the establishment of a working group of the Committee, to be known as the workshop. The workshop was to be chaired by two Co-Chairmen having joint responsibility for its work, who would submit reports in writing at formal meetings of the Committee on the work done in the workshop.

2. The Chairman of the Committee informed the workshop on 9 August that consultations had indicated that Mr. Jagota (India) and Mr. Sondaal (Netherlands) should work as Co-Chairmen of the workshop. The proposal was unan-

imously accepted by the workshop. A method of work which had been drawn up by the Co-Chairmen was presented to the workshop by the Chairman of the Committee. This method of work, as endorsed by the workshop, was as follows:

(a) The two Co-Chairmen will preside over the meetings of the workshop in alternation. If there are two meetings in one day, one meeting will be presided over by one Co-Chairman, and the second by the other Co-Chairman. Flexibility will be maintained.

(b) When one Co-Chairman presides, the second Co-Chairman will sit on his right-hand side rather than in the seat of his delegation.