

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/SR.31

31st meeting 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)*

31st meeting

Monday, 30 August 1976, at 10.30 a.m.

Chairman: Mr. P. B. ENGO (United Republic of Cameroon).

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

1. Mr. MAZILU (Romania) said that the third report under consideration (A/CONF.62/C.1/WR.3) objectively reflected the activities carried out within the workshop during the previous week.
2. Noting that the negotiating group of the workshop was open to participation by all States, he said that in future each delegation should be given the possibility of expressing its opinion and making suggestions, since all delegations had equal rights and duties with respect to the negotiations on important issues.
3. It was good that the debates were informal, as that facilitated frank discussion of all the complex problems of exploration and exploitation of the mineral resources of the sea-bed. Nevertheless, members should bear in mind the need to identify the most desirable solutions, which would then be discussed and decided upon by the Committee. The discussions at the first four meetings of the negotiating group showed the particular importance that should be attached to the establishment of a common and efficient system of exploitation of the common heritage of mankind.
4. Mr. KAZMIN (Union of Soviet Socialist Republics), drawing attention to the reference in paragraph 2 of the report to joint sovereignty over the area, said that his delegation had always felt that the Authority should be concerned only with promoting and regulating the exploitation of the common heritage. The fact that the resources of the area were the common heritage of mankind did not mean that the international community should exercise sovereignty over it. Under article 4, paragraph 1, of part I of the revised single negotiating text (see A/CONF. 62/WP.8/Rev.1),¹ no State could exercise sovereignty over the area; neither could the international community acting through the Authority exercise such sovereignty.
5. Miss MARTIN-SANE (France) agreed with the representative of Romania that all delegations could express their views within the negotiating group. However, she felt that the informal discussions should not be reflected in the weekly report by the Co-Chairmen. The formula worked out by the Co-Chairmen was preferable to a summary of the discussions in the negotiating group. Of course, as soon as a solution to a particular problem was found, the workshop would be so informed.
6. Mr. RATINER (United States of America) said that an effort should be made to obtain a more balanced reflection of the views of delegations in the weekly report by the Co-Chairmen. For example, a reading of the report under consideration might give the impression that the view reflected in the last sentence of paragraph 2 was the only one expressed on the matter. No reply had been made to that suggestion at the time when it had been made. However, his delegation had made a statement the previous week which had not appeared in the report for that week but which had a direct bearing on the matter. In discussing the issue, particularly with respect to full and effective control by the Authority, his delegation had been speaking in connexion with the original articles on the system of exploitation submitted by the Group of 77. He had stated then that while the idea of supervision over all activities in the area could be entertained, that did not mean that relationships between the Enterprise and States or private parties would necessarily be the same as those between States or private parties and the Authority itself. In other words, he had been making a distinction between contracts with the Authority and contracts which the Enterprise might enter into at its discretion. It had been suggested that a possible compromise might be the following: over-all supervision or control by the Authority of all activities in the area, but with a distinction being made between supervision of entities that entered into contracts with the Enterprise, should the Enterprise choose to enter into such an arrangement, which would be exercised through a fully negotiated arrangement; and supervision of a contractor with the Authority, which would be exercised through the Authority's rules and regulations and financial arrangements making the contractor subject to the effective control of the Authority, but at the same time ensuring access to contractors. In that connexion, he drew attention to the provisions in article 31 of the revised single negotiating text and the annex which enabled the Authority to exercise considerable supervision through the application of provisions for modification or suspension of contractors' rights.
7. While that statement had been made at an earlier meeting, the current report might give the impression that the suggestion referred to in the last sentence of paragraph 2 was the only real statement made on the question of over-all compromise between the system of exploitation and decision-making procedures in the Authority. Perhaps the Co-Chairmen should be given freedom to write their reports in a more analytical way. Thus, each report would build on previous statements and give a more balanced reflection of the views expressed.
8. There was another problem to which he wished to draw attention, although he could not suggest how it might be solved. Informal contacts between his delegation and many of the delegations represented at the Conference revealed a much more middle-of-the-road approach to the solution of problems than that reflected in the reports. By contrast, in the Committee's discussion of the parallel system, for example, strong remarks had been made on both sides of the issue and those remarks had been reflected in the workshop reports. He felt it was right that the reports themselves should not reflect the more moderate approach taken in the informal discussions because it was not in fact manifested in the meetings. Nevertheless, that more moderate approach was a political fact which existed in the Committee and was not finding its way into the records.
9. Mr. CORREA (Mexico) said that while his delegation attached great importance to the reports, it found that in their present format they did not provide a basis for discussion of substantive issues. Although his delegation was not requesting a summary of the different positions expressed, it felt that all the specific issues of substance that had been touched upon should be reflected in the reports.
10. His delegation was glad that the representative of the United States had raised the matter because it believed that all points raised in the negotiations should be mentioned in the reports.
11. Mr. RATINER (United States of America) said he wished to make it clear that he had not referred to "negotiations" because he felt that the proceedings in the negotiating group were entirely informal and should not be reflected in the records of the Committee.
12. Mrs. HO Li-liang (China) said that her delegation believed that the reports should reflect fully the main points expressed in

¹See *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).

statements by representatives. The week before, representatives of many developing countries had clearly urged that there should be safeguards for the international sea-bed as the common heritage of mankind and had stressed that the Authority was entitled to exercise all rights over that area and had definite rights with respect to the conclusion of contracts. A majority of delegations had also stated that the new law of the sea convention should reflect the interests of the majority of countries, especially developing countries, and should be a component part of the new international economic order. Those views, however, had been only partially reflected in the report, while a minority opinion had been given fuller treatment. Her delegation believed that the views of the majority should be fully reflected.

13. Mr. RATINER (United States of America) asked whether it

was possible for the Representative of the Secretary-General to provide a status report on the study concerning the Enterprise that was currently being made. Many delegations felt that that study was relevant because there was a direct relationship between the Enterprise and the exploitation system.

14. Mr. LEVY (Secretary of the Committee) said that different units of the Secretariat had been requested to co-operate in preparing the study and that although the work had already begun, he could not as yet state precisely when the study would be completed. He was confident, however, that it would soon be available.

The meeting rose at 11.05 a.m.

32nd meeting

Tuesday, 7 September 1976, at 3.55 p.m.

Chairman: Mr. P. B. ENGO (United Republic of Cameroon).

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

1. The CHAIRMAN, explaining that Mr. Jagota, Co-Chairman of the workshop, was to leave New York that evening at the request of his Government, expressed deep gratitude to him on behalf of the Committee for the tireless manner in which he had tackled a very difficult task.
2. He invited Mr. Sondaal, also Co-Chairman of the workshop, to introduce the fourth weekly report on the activities of the workshop (A/CONF. 62/C.1/WR.4).
3. Mr. SONDAAL (Netherlands) read out the text of the weekly report. He expressed regret at Mr. Jagota's impending departure. Although the circumstances in which the Co-Chairmen had operated had not been easy ones and there had been difficulties to overcome, they had succeeded in reaching a working understanding.
4. Mr. JAGOTA (India) thanked delegations for their co-operation and for the confidence they had reposed in the Co-Chairmen. He also expressed his gratitude to Mr. Sondaal.
5. Summing up the progress achieved by the workshop and the negotiating group, he said that one positive element which had emerged was the establishment of a framework for a free exchange of views. Clearly, any international legal text dealing with sea-bed exploitation, if it was to be durable, would have to meet the essential requirements of all States. The informal deliberations of the current session had revealed three sets of views. First, there were the developing States, which had no operators themselves but which attached importance to the creation of an appropriate legal framework for sea-bed exploitation. Those States might be called the "framework States." Secondly, there were the technologically advanced countries, with financial capability, which would be able to engage in sea-bed production as soon as a convention was signed. They were the "operator States", without which exploitation of the sea-bed could not proceed, at least in the foreseeable future. Thirdly, there was a group of countries which were unwilling either to compete with the private corporations of Western States or to give the Authority full latitude in determining the conditions of sea-bed exploitation. That group was composed of socialist States.
6. During the current session, the essential demands of those three groups of States had crystallized. It now remained to

devise a system which would meet those demands. He himself was optimistic that during the next few months a concrete solution would emerge on the basis of the framework which had now been created.

Study by the Secretariat on alternative means of financing the Enterprise (A/CONF.62/C.1/L.17)

7. Mr. ZULETA (Special Representative of the Secretary-General) introduced the document entitled "Alternative means of financing the Enterprise" (A/CONF.62/C.1/L.17), which had been prepared by the Secretariat at the request of the Committee.
8. The comments made in the study were of a preliminary character. All the calculations were based on working assumptions, which would have to be revised as more comprehensive information became available. The sources of information were very limited, in some cases speculative in character, and in general focused on aspects of the problem which were not always applicable to the Enterprise as it was defined in the revised single negotiating text.

Organization of work

9. The CHAIRMAN, noting that the President of the Conference had ruled that the Committees should conclude their work by Friday, 10 September, and that the Chairman of each of the Committees should report on the progress achieved during the session to the plenary Conference on Monday, 13 September, outlined the following programme of work: the workshop would meet for the remainder of the afternoon and on Wednesday, when it would conclude its debates. On Thursday, Mr. Sondaal, if members wished him to continue to preside over the deliberations of the workshop, would make his final report to the Committee and members would have an opportunity to make comments. At that time, too, or on Friday, delegations would have an opportunity to comment on the relations between the Assembly and the Council, a topic which unfortunately the Committee had not had an opportunity to take up earlier.
10. On Wednesday morning, in compliance with a request made by the President of the Conference, the workshop would