

Third United Nations Conference on the Law of the Sea

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34th 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)*

35. Mr. KASEMSRI (Thailand) conveyed the condolences of his delegation to the Government of the People's Republic of China. Under the leadership of Chairman Mao Tsetung relations between the People's Republic of China and Thailand had grown strong on the basis of peaceful coexistence and mutual interests; he was convinced that those relations would continue to be excellent.

36. Mr. ZEGERS (Chile) expressed his delegation's deep sorrow at the death of Chairman Mao Tsetung. Not only had the people of the People's Republic of China lost a great statesman, but the whole developing world had lost a great defender of its cause.

37. Mr. VANDERPUYE (Ghana) expressed the condolences of his delegation on the death of Chairman Mao Tsetung, whose name had been an inspiration for the people of his country.

38. Mr. HERMAN (Canada) associated himself with the sincere condolences expressed by previous speakers.

39. Mr. SORIANO (Philippines) expressed his sincere condolences at the news of the death of Chairman Mao Tsetung.

40. Mr. HOUNGAVOU (Benin) associated himself with the condolences expressed to the Chinese delegation on the death of Chairman Mao. The work of that great leader in the struggle of peoples for justice and national liberation would endure.

41. Mr. BENNANI (Morocco) said that Chairman Mao had undoubtedly been one of the outstanding figures of the age and that his work had been a source of inspiration to all.

42. Mr. CAMILLERI (Malta) said that the death of Chairman Mao meant the loss of a great leader to China and the loss of a great man to mankind. Through his work Chairman Mao had been able to shape historical events and influence them; he had helped to change the contemporary world and to build a better world for the future.

43. Mr. RATTRAY (Jamaica) said that the expressions of grief in the Committee reflected the admiration which Chairman Mao had been able to arouse. His life had been a symbol of freedom and hope and, despite his death, his thought and example would endure throughout the ages.

44. Mr. RAO (India) expressed his condolences to the people, Government and delegation of China. Chairman Mao had been one of the great Chinese leaders whose work had shaped the Chinese State.

45. Mrs. HO Li-liang (China) said that the death of the great leader and teacher, the founder of the Communist Party, of the liberation army and of the People's Republic of China, was an incalculable loss for the Chinese people. In its great sadness, her delegation had listened to the condolences expressed by the Chairman of the Committee and by the representatives, and thanked them sincerely. She was convinced that the grief of the Chinese people would be transmuted into the courage to continue the work of Chairman Mao until China was transformed into a great socialist country, for the benefit of mankind.

The meeting rose at 1.25 p.m.

34th meeting

Thursday, 9 September 1976, at 4.15 p.m.

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

Final report by the Co-Chairmen on the activities of the workshop (A/CONF.62/C.1/WR.5 and Add.1)

1. Mr. SONDAAL (Netherlands), speaking on behalf of the other Co-Chairman of the workshop and himself, read out the final report by the Co-Chairmen on the activities of the workshop from 9 August to 8 September 1976, the first part of which (A/CONF.62/C.1/WR.5) dealt with the organization of work, papers presented to the workshop and further suggestions made in discussions in the workshop, while the second part (A/CONF.62/C.1/WR.5/Add.1) contained the Co-Chairmen's assessment of the discussions.

2. Mr. MAZILU (Romania) expressed his delegation's deep sorrow and sympathy to the Chinese delegation, Government and people on the occasion of the death of Chairman Mao Tsetung.

3. Referring to the report submitted by the Co-Chairmen, he said that the debate during the past few weeks had demonstrated the great importance attached by all States to the setting up of efficient and equitable procedures for the exploitation of the resources of the sea-bed. That discussion had been both interesting and useful. His delegation, while appreciating the efforts made to elaborate the points to be considered by the Authority when entering into negotiations and into contracts with applicants, felt that it would be more useful to consider the basic aspects of the system before taking up the practical issues. Those two categories of issues were closely interrelated and were both of major significance.

4. To ensure better progress in its work, the Committee should endeavour to find solutions to major issues, such as the

organization of the process of exploration and exploitation and equipping the Enterprise with the technology necessary for initiating the process of exploitation. Future negotiations should emphasize the steps which the Authority should take for the efficient exploitation of the mineral resources of the sea-bed for the benefit of all States, in particular the developing countries. In that connexion, three questions were of major importance: first, the provision of the Enterprise with modern equipment and machinery on the best possible terms, on the basis of the principles of the transfer of technology, as discussed at the previous session; secondly, the hiring for the Enterprise of qualified personnel and the securing of practical means for training such personnel to a level commensurate with world-wide requirements; thirdly, the achievement of a rate of production which would meet the requirements of all States, particularly the developing countries. A thorough discussion of those questions and of all the issues raised by the Co-Chairmen and delegations during the current session would contribute to the establishment of a joint system of exploitation and would ensure the maintenance of the unique and indivisible character of the common heritage of mankind.

5. Mr. GONZÁLEZ DE LEÓN (Mexico) said that the Co-Chairmen's report reflected accurately the differences of opinion existing among delegations. The existing text of article 22 of part I of the revised single negotiating text (see A/CONF.62/WP.8/Rev.1)¹ clearly did not constitute a basis for

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).

negotiation. He agreed that, if a viable process of negotiation was initiated without further delay, it might be possible to arrive at some agreement at the following session.

6. Mr. HUSSAIN (Pakistan), referring to paragraph 14 of document A/CONF.62/C.1/WR.5, said that at the end of the seventh sentence of that paragraph the word "particularly" should be replaced by the word "including" in order to reflect more accurately the wording of workshop paper No. 2.

7. The CHAIRMAN stated that the correction was in order and that appropriate measures would be taken in the final document.

8. Mr. ALOUANE (Algeria) said that his delegation had not participated in the proceedings of the past few weeks because no serious negotiations had taken place.

9. He recalled that at the previous session the Group of 77, in a letter addressed to the Chairman of the Committee, had expressed the opinion that their views were better reflected in the single negotiating text prepared at the third session at Geneva than in the revised text submitted by the Chairman at the conclusion of the most recent session in New York.

10. Considerable time had been wasted in the discussion of procedural questions. A number of delegations had maintained that it was not possible to discuss the text of article 22 without having first agreed on the basic conditions for exploration, although, in his view, agreement on those basic conditions had been reached at the Geneva session. If the Conference continued on its current course, little would be achieved.

11. He noted that it had been reported in the press that certain delegations, including that of Algeria, were blocking the Conference. Since his delegation had been absent from the proceedings, it was difficult to see how such could be the case. As had already been stated by a number of delegations, including those of Japan and the United States, all parties concerned were responsible for the prevailing situation. The Conference should tackle questions of substance as soon as possible if anything was to be achieved at the coming session.

12. His delegation could not accept the principle of allowing multinational corporations—which were involved in corruption and political assassination—free access to the resources of the sea-bed. The principles of a parallel system and of a reserved zone were also unacceptable.

13. If a satisfactory procedure was found for serious negotiations and for the re-establishment of confidence, the Conference could complete its work at the coming session.

14. Mr. YARMOLOUK (Union of Soviet Socialist Republics), referring to paragraph 14 of document A/CONF.62/C.1/WR.5, proposed that the sixth sentence of that paragraph should be amended to read: "States parties sponsoring such entities would be responsible for taking all necessary measures to ensure that such entities complied with the provisions of part I of the convention, annex I and the rules, regulations and procedures adopted by the Authority in accordance with article 28."

15. Mr. AL-WITRI (Iraq) said that, as a member of the Group of 77, his delegation supported the position set forth in workshop paper No. 1. The fundamental principles which should govern the system of exploitation in the international area should include the following: first, all activities in the area should be conducted through the international Authority, either directly through the Enterprise or by means of a system of contracts; in any event, the Authority should exercise total control over exploitation activities at all stages; secondly, the Authority should have discretionary power regarding the selection of applicants; thirdly, the international sea-bed area was part of the common heritage of mankind and as such must be administered by the Authority on behalf of mankind as a whole. It followed that the area could not be subdivided.

16. The group of Arab States had studied the text of article 22 and annex I of part I of the revised single negotiating text, regarding which his delegation had important reservations and a large number of amendments to propose. It had, in fact, put

forward a number of proposals in that regard within the Group of 77 and the negotiating group. He regretted that most of its suggestions had not been taken into account during the current session. It appeared, therefore, that the session would conclude without producing concrete results. He stressed his delegation's reservations regarding the revised single negotiating text and the need to base further discussions on the Geneva text.

17. His delegation had hoped that the Committee would consider the composition of the Authority and its Council on the basis of a text prepared by the Group of 77; for various reasons, however, the Group of 77 had not submitted its text.

18. Mr. KONE (Ivory Coast) said that the rather general character of the report prepared by the Co-Chairmen was a reflection of the overly negative attitude of the Committee which had led it to reject various procedures even when they had proved their usefulness. If at the beginning of the session the Committee had continued with the procedure followed at the preceding session, it would surely have been able to produce a compromise article to replace article 22 as it appeared in the revised single negotiating text. The Committee should, at the next session, use procedures which had already been applied and not waste time in searching for the "perfect" procedure. Moreover, confidence had to be restored if progress was to be made, since the current impasse was the result of the crisis of confidence and not of the procedure followed at the preceding session.

19. If the Committee had had sufficient time to analyse all the papers submitted by the Chairman at the preceding session, it would have been able to produce concrete results.

20. Mr. GONZÁLEZ DE LEÓN (Mexico) suggested that the evening meeting should be cancelled since the important report of the Co-Chairmen of the workshop was not yet available in its entirety.

21. The CHAIRMAN said that even without the report of the Co-Chairmen it was still possible to indicate those areas in which the problems outstanding could be solved. Furthermore, the President of the Conference had urged the Committees to conclude their work by the morning of 10 September. The meetings of regional groups were important and he had no intention of asking them to cancel their afternoon meetings on 10 September to allow the First Committee to hold an additional meeting.

22. Mr. NDIR (Senegal) said that the stage had been reached when it was no longer a question of putting forward new proposals but rather of assessing the progress made after one month of negotiations and of seeking ways to reconcile the various positions, with a view to producing an agreed international convention. There were indications of a willingness to compromise; first, there was a commitment to vest the Enterprise with such powers as might be required to make it viable, and second, there was agreement within the negotiating group that a list of conditions under which the Authority could refuse to conclude a contract should be drawn up. The last question had not been dealt with in workshop paper No. 1 and the absence of provisions governing such an eventuality had been viewed with mistrust by the great Powers. Specific proposals had been made which, if accepted, would scale down the power of the Authority and ensure the security of transactions, which was an aim of the great Powers. Such efforts towards reaching compromise should be encouraged, since only then could the wide range of interests represented at the Conference be reconciled and a convention acceptable to all be adopted.

23. Mr. VILLAGRÁN KRAMER (Guatemala) observed that the report of the Co-Chairmen did not reflect the frustrations experienced during the current session but rather laid emphasis on the constructive aspects of the work completed thus far. Furthermore, it reflected only partially the positions of the various groups, since there had not been sufficient time to consider the questions of the Council, the Assembly or article 9. It reflected neither the terminological problems raised by each of

the three workshop papers nor the fact that delegations, in subscribing to the common position of a group, had had to sacrifice aspects of their own individual positions. Guatemala, for its part, shared the general concerns of the Group of 77, but felt that if more time had been available it would have been possible to understand the respective positions of the United States, the Soviet Union and the European Economic Community countries on articles 9 and 22.

24. As the second part of the Co-Chairmen's report was not yet available in writing, it was difficult to conduct a proper discussion of it. The Mexican motion to cancel the evening meeting had not yet been dealt with and he therefore appealed to the Chairman to enable arrangements to be made to ensure ample time for the discussion of the Co-Chairmen's report; after all, the interests of mankind were at stake. Additional meetings should be held, even on Monday if necessary, to allow the Committee to clarify certain points which required further discussion.

25. The CHAIRMAN said that the matter was not entirely in his hands since the President of the Conference had instructed the committees to conclude their work by 10 September. If it was the general desire of the Committee to exceed that time-limit, however, he would take the matter up with the President.

26. Mr. DE SOTO (Peru), noting the Algerian representative's reference to a letter sent by the Group of 77 to the Chairman of the First Committee in May 1976 with regard to the work of the Committee, said he was concerned that the representative of Algeria might not have seen the final version of the letter and his reference to it might, therefore, have been somewhat inaccurate. He accordingly read out the text of the final version of the letter in which it was stated that the Group of 77 reserved its position on the substance of the Chairman's texts, which it had not had sufficient time to examine; that it requested the Chairman to take its views as expressed in the Committee into account when preparing his revision of the single negotiating text; that pending the study of that revision the Group felt that part I of the Geneva single negotiating text was an adequate basis for discussions; and that the Group wished the letter to be circulated as a Committee document.

27. Mr. BOOH BOOH (United Republic of Cameroon) joined other speakers in congratulating the Co-Chairmen on their report. He expressed disappointment, however, at the work of the Committee. It seemed that the current session had not been sufficiently prepared and that numerous delegations had not even had an opportunity to read the revised single negotiating text. It was to be regretted that the Committee had engaged in such lengthy and costly procedural discussions and he hoped that at the next session it would adopt some simpler procedure that would enable it to work more effectively, as the system of having two Co-Chairmen had proved to be complicated and difficult to handle. With regard to the "crisis of confidence", he felt it had been apparent at all stages of the Committee's work. His delegation, which was a member of various groups, regretted the tendency for positions to harden, which paralysed the work of the Committee and increased the

feeling of lack of confidence. Delegations should take into account the realities of the situation and be flexible in formulating their positions. For instance, it was generally not helpful when a delegation categorically rejected a text as the basis for discussion. Interesting ideas had been presented, some aimed, for example, at making the Enterprise more viable, but there had been no time to consider them. He noted that many of those ideas had emerged outside the workshop discussions. It was necessary to consider all those proposals and not to remain shackled by fixed positions. In that connexion he supported the statements made by the representatives of the Ivory Coast and Senegal.

28. Mr. RATTRAY (Jamaica) observed that the session had not been a great success and agreed that there might not have been adequate opportunity to read and study the revised single negotiating text or to have the consultations necessary for the identification of areas of agreement. Future sessions would face the inevitable task of identifying further elements necessary for arriving at some form of consensus. The Committee would, furthermore, have to find some practical solution to the procedural problems, since, despite the novel system set up, it had been difficult to present new views relating to broad areas of principle.

29. However, the session had not been an unqualified failure, for the Co-Chairmen, despite all the problems entailed by the procedure adopted, had provided a comprehensive report and a useful assessment, which would serve as a benchmark for future negotiation. The report had attempted to identify areas where there was hope for agreement and differences which must be bridged. He stressed in particular two areas of agreement mentioned in the addendum to the report, first that it was doubtful that any delegation supported an automatic assurance of access and secondly that the concept of the common heritage of mankind was considered highly important and would impose the obligation to ensure that the system of exploitation did not create a monopolistic situation with respect to activities in the area. Much remained to be done in exploring those two areas of agreement.

30. Success would continue to elude the Committee if it lacked the moral and political courage to explore issues with frankness. He felt that all delegations must accept a full measure of blame for the lack of success of the session. There were important lessons for the future in the fact that the issues still outstanding were not primarily technical but were political ones which no amount of intellectual manoeuvring could remove. It was essential that the coming session should be able to face those political decisions squarely. With regard to the system of exploitation of the common heritage of mankind his delegation supported the views of the Group of 77, recognizing, nevertheless, the need for adequate financial arrangements. There was also the important question, which had political implications, of whether any form of dual system of exploitation could be acceptable.

The meeting rose at 7 p.m.