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

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)*

6. Another group, while sharing the expressed view that the Authority must be equipped with broad powers of participation, regulation and control, stated that the best hope for a compromise package for the system of exploitation would be to combine these powers with the right to contract for qualified applicants who are prepared to abide by all applicable rules and regulations. The other essential element in such a compromise would be provisions creating such conditions for the Enterprise as would allow it to establish itself as a viable concern. The suggestion was made in this connexion that efforts should be made to reach an agreed formula on the question of reserved areas.

7. Further statements were made on 19 August supporting the parallel system of exploitation.

8. At the meeting held on 20 August, detailed discussions took place concerning the concrete proposals contained in workshop papers Nos. 1, 2 and 3. Questions were asked concerning specific aspects of these proposals. Views were expressed that the proposals in workshop paper No. 1 would confer discretionary powers upon the Authority to reject applications for contracts without assigning reasons. Deep seabed mining was a high risk venture and involved sophisticated technology and high investments and therefore security of tenure and investments were necessary. Contracts based on objective criteria set out in the convention would meet these

concerns of the operators who would be able to participate in such enterprises from the outset.

9. One delegation supported the principles contained in workshop paper No. 1 and opposed those contained in workshop papers Nos. 2 and 3, including the parallel system of exploitation referred to therein.

10. The view was also expressed that there was no need to be dogmatic on the question whether access to the international sea-bed area should be automatic or whether the Authority should have discretionary powers. What was necessary to emphasize was that neither the Authority nor the contractor should have arbitrary powers.

11. Concrete questions were asked with reference to the proposals contained in workshop paper No. 1, in particular concerning the proposed text of article 22. Replies were given to these questions and it was stated that negotiations could take place concerning the criteria which should be borne in mind by the Authority in negotiating its contracts with the applicants and that the provisions in the proposed paragraph 8 *bis* (f) could be further examined.

12. There was a general readiness, as indicated in the statements made from all sides, to engage in productive negotiations on the subject under consideration.

13. The two Co-Chairmen shared this view of optimism.

DOCUMENT A/CONF.62/C.1/WR.3*

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

[Original: English]
[26 August 1976]

1. The workshop held four meetings during the period 23-25 August 1976, during which time it continued its consideration of the system of exploitation of the international seabed area, in particular of the three papers submitted to the workshop on this subject.

2. At these meetings several delegations stressed the fundamental character of the international area as the common heritage of mankind, and the commitment of all States to seek a practical realization of that concept, which in the first place requires that the international community, through the Authority, exercise joint sovereignty over the area, and not alienate any part of it to States parties or other entities. Furthermore, the Enterprise, as the operating arm of the Authority, was intended to work on behalf of all States. Priority should therefore be given to consideration of ways and means of enabling the Enterprise to commence productive operations as soon as possible. It was also suggested that an acceptable compromise would seem to be one which established the over-all and effective control of the Authority over all activities in the area, while adopting decision-making procedure in the organs of the Authority which would ensure that the essential interests of all, including those of the minority, would be adequately safeguarded.

3. Reference was also made to the Declaration of Principles governing the Sea-Bed and the Ocean Floor, and the Subsoil thereof, beyond the Limits of National Jurisdiction by the General Assembly in its resolution 2749 (XXV) and to the recognition of the right of all States to participate in the exploitation of the area. Certain principles should therefore be

observed if the Authority were to be an effective institution in the co-ordination of international co-operation. States or State-sponsored entities as well as the Authority itself should be eligible to engage in activities, and the conclusion of contracts between the Authority and entities, regarding those activities, should not absolve States parties of their obligations under international law. These principles, it was noted, were reflected in workshop paper No. 2, which was supported by some delegations.

4. One way of balancing the control of the Authority against the right of all States, it was suggested, might be to reserve favourable mine sites for the Enterprise as well as for States which are not immediately able to participate so that there would be an opportunity for all to eventually exploit the resources of the sea-bed.

5. Attention was also drawn to the necessity of promoting and protecting the interests of the land-locked and geographically disadvantaged States in applying the selection procedure to be set out in annex I of part I of the revised single negotiating text.⁶⁴

6. Further questions were raised with respect to the content of the three workshop papers. It was asked, for example, whether there might not be sufficiently harmonious elements in the proposals made in the three workshop papers concerning annex I to promote a general understanding on the practical application of the Authority's powers to refuse to enter into or conclude contracts.

*Incorporating document A/CONF.62/C.1/WR.3/Corr.1 of 30 August 1976.

⁶⁴*Ibid.*

7. Several delegations supported the approach embodied in workshop paper No. 1, while some others supported workshop paper No. 3.

8. The question was then considered as to how to proceed further in productive negotiations. On 26 August it was decided that a more informal and smaller forum for negotiations should be established. This negotiating group, which consisted of 26 members, was composed as follows: Australia, Brazil, Canada, Czechoslovakia, Ecuador, France, German Democratic Republic, Germany (Federal Republic of), Ghana, Indonesia, Iran, Iraq, Jamaica, Japan, Mexico, Norway, Poland, Portugal, Senegal, Sri Lanka, Tunisia, USSR, United Kingdom, United Republic of Tanzania, United States of America, Zambia. It was clarified that the coordinators for various groups, who were not included in the above list, might also participate in the negotiating group like

other members. Other delegations might also participate in discussions in the group. The negotiating group was an *ad hoc* group. Its composition did not constitute a precedent for any other purpose. It was given the task of negotiating the system of exploitation, in particular articles 22 and 23 and the related provisions of annex I, and producing such results as could command a consensus in the workshop. Informality would be maintained to enable the group to produce these results. It was to be chaired by the two Co-Chairmen of the workshop in the same way as the workshop itself. The Co-Chairmen would report regularly to the workshop on the results in the negotiating group after every four meetings, although flexibility would be maintained.

9. Four meetings of the negotiating group were held during the week on the subject-matter allocated to it.

DOCUMENT A/CONF.62/C.1/WR.4

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

[Original: English]
[3 September 1976]

1. The workshop held one meeting on 2 September during the period 30 August to 3 September, the rest of the week being devoted to seven meetings of the negotiating group on the system of exploitation of the international sea-bed area.

2. Discussions in the negotiating group concentrated on article 22 of part I of the revised single negotiating text⁶⁵ and related paragraphs 7 and 8 of annex I, with particular attention to proposals contained in workshop paper No. 1. The Co-Chairmen, at the request of the group, prepared a paper listing two sets of points which the Authority will consider in respect of entering into negotiations with an applicant and entering into a contract with it. This paper was prepared on the basis of the ideas contained in the workshop papers and the suggestions made in meetings of the group.

⁶⁵*Ibid.*

3. The Co-Chairmen made an oral report to the workshop meeting on the work done in the negotiating group at its last five meetings.

4. At the meeting of the workshop, one delegation made certain suggestions concerning article 22 as contained in workshop paper No. 1, with a view to helping establish a middle ground between the methodologies set forth in the three workshop papers.

5. It was pointed out, during the meeting of the workshop, that there was only a limited period of time available before the end of the session and that it would be desirable at least to initiate discussion on another item, for example, the Assembly and the Council of the Authority. It was agreed to start discussion on this item about the middle of the next week (8 September), keeping in mind the need to allow time to the negotiating group on the system of exploitation to make progress in its work.

DOCUMENT A/CONF.62/C.1/WR.5 AND ADD.1

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

[Original: English]
[9 September 1976]

DOCUMENT A/CONF.62/C.1/WR.5*

ORGANIZATION OF WORK

1. At its 26th meeting on 5 August 1976, the First Committee decided to establish a workshop in order to conduct its work in an informal setting. The workshop was co-chaired by Mr. Jagota (India) and Mr. Sondaal (Netherlands). It held 13 meetings from 9 August to 8 September. The Co-Chairmen prepared joint weekly reports on the workshop for submission to the Committee (A/CONF.62/C.1/WR.1 to 4).

2. The workshop commenced its discussion with the system of exploitation of the international sea-bed area, par-

ticularly article 22 of part II of the revised single negotiating text,⁶⁶ and the related paragraphs in annex I on the basic conditions of prospecting, exploration and exploitation.

3. At its meetings on 18 and 19 August, three papers on the system of exploitation were presented and distributed as workshop papers Nos. 1, 2 and 3. Workshop paper No. 1 contained texts on articles 22 and 23 and on paragraphs 2, 7 and 8 (new 8 (a), and 8 bis) of annex I. Workshop paper No. 2 contained texts on article 22; workshop paper No. 3 contained texts on articles 22 and 23, and related paragraphs 2 and 5 to 9 of annex I. In the subsequent discussions, not all of the

*Incorporating document A/CONF.62/C.1/WR.5/Corr.1 of 16 September 1976.

⁶⁶*Ibid.*