

Third United Nations Conference on the Law of the Sea

1973-1982

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72nd Plenary meeting

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)*

41. The PRESIDENT, replying to the question raised by the representative of the United States, said that provisional application would form part of the final clauses.

42. Summing up the debate on document A/CONF.62/L.12/Rev.1, he suggested that, if there were no objections, the Committee would decide: first, whether they wanted to focus their negotiations on key issues, using document A/CONF.62/L.12/Rev.1 as a guide; secondly, if so, what were the main issues; thirdly, the order in which those issues should be taken up; and fourthly, the way in which such negotiations were to be conducted in order to achieve speedy progress and universal involvement of delegations. In so doing, the Committee should note the position of small delegations and organize their work accordingly.

It was so decided.

43. The PRESIDENT said that it had been decided in the General Committee that the general debate on the preambular and final clauses should be broken up into two parts to deal, first, with the purely formal aspects of the draft and, secondly, with more substantive matters such as entry into force, reservations and denunciations. It had been urged that the discussion of substantive matters should only take place when delegations had a clearer idea of the outcome of negotiations on parts I, II and III of the negotiating text.

44. The text of part IV, on the settlement of disputes, had the same status as parts I to III had had before they had formed the subject of negotiation and had thereafter been revised. He therefore suggested that informal negotiations should be held on the informal single negotiating text contained in document A/CONF.62/WP.9/Rev.1 so that it could be revised and raised to the same status as parts I, II and III of the revised single negotiating text.

It was so decided.

45. The PRESIDENT suggested that the same arrangements

regarding informal group meetings should be followed as for the previous session.

It was so decided.

Organization of the Conference and membership of subsidiary organs

46. The PRESIDENT stated that, in accordance with the agreements already reached, during the present session Ireland would replace Belgium as a member of the General Committee and Thailand would replace Bangladesh as a member of the Drafting Committee.

It was so decided.

47. The PRESIDENT informed the plenary that the General Committee had decided to endorse his recommendation that Mr. J. Evensen (Norway) should be designated as the Vice-President who would replace him during his absence from New York from 5 to 23 August. He commended the proposal to the plenary.

It was so decided.

Addition to the list of non-governmental organizations

48. The PRESIDENT suggested that, if there were no objections, two non-governmental organizations in consultative status with the Economic and Social Council, the Baptist World Alliance and the World Conference on Religion and Peace, should be invited to attend the Conference as observers.

It was so decided.

The meeting rose at 6.05 p.m.

72nd meeting

Tuesday, 7 September 1976, at 10.50 a.m.

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

Organization of work

1. The PRESIDENT said that the Conference was now entering the last week of its fifth session and that he was sorry he could not report any real progress in the work of the three Committees. The new arrangements which had had to be made by the First Committee in the workshop in order to expedite matters had apparently not produced the expected results. That was very unfortunate, and it was unquestionably time for the First Committee to give serious thought to the possibility of changing its working procedures. The Chairman of the First Committee had informed him in that connexion that he had intended to supplement the existing procedure by setting up a new group consisting of 26 delegations—13 representing industrialized countries and 13 representing developing countries. In the absence of any further information, that project required no comment.

2. In addition, the Second Committee had set up three negotiating groups to study the key issues. The first was dealing with the status of the exclusive economic zone, including the rights and obligations of third States with respect to coastal States, the second with the question of the

right of access to and from the sea and freedom of transit for land-locked States, and the third with the question of the definition of the outer limit of the continental margin and participation in the benefits of exploitation of the continental shelf beyond the 200-mile limit. A number of small groups had also been set up. The delegations comprising them were divided into three categories, the two first consisting of delegations which held opposing views, while the third consisted of countries which had found a middle ground. The Chairman of the Second Committee now planned to set up two additional groups, the first to study the problem of straits used for international navigation and the second the problem of the delimitation of the exclusive economic zone and of the continental shelf. None of the three Chairmen intended at the present stage to produce a new revised version of the single negotiating text.

3. The Third Committee had focused its efforts on the questions of pollution and marine scientific research. It now intended to turn to the question of the transfer of technology. Some progress seemed to have been made in that area, but there were still many obstacles to overcome.

4. The current situation was that the problems were clearly identified but that the solutions still had to be found.

5. He recalled that at the beginning of the session he had expressed the hope that the Committees would complete their work towards the end of the fourth week. That hope was far from being realized, because the sixth week of the session was now beginning. Since there was nothing to indicate that the Committees were nearing the end of their work, he felt that they should pursue their efforts for another week. The Committee Chairmen had to make sure, nevertheless, that the questions they were dealing with were taken up in plenary session before the end of the week. They also had to sum up the situation at that point so as to be able to report to the General Committee and the plenary Conference the following Monday and thus make it possible for the necessary action to be taken at that time to facilitate and expedite the negotiations.

6. The question of dispute settlement had given rise to discussion based on part IV of the single negotiating text (see A/CONF.62/WP.9/Rev.1)¹, at the conclusion of which he expected to carry out the task of preparing a revised version which would have the same status as the three other parts which had already been presented in the form of the revised single negotiating text. The discussions which had taken place at various informal meetings, conducted mainly by the Vice-President—who was also leader of the Norwegian delegation, had made it clear that the Conference was operating on certain assumptions. A number of delegations had rightly pointed out that the debate had been to some extent theoretical since certain essential questions which would decide the outcome had not been settled. It had not yet been decided whether to set up one tribunal with jurisdiction over disputes relating to the international sea-bed area and a second tribunal to settle all other problems relating to the law of the sea, especially the problems currently being discussed by the Second and Third Committees. There would inevitably be some overlapping between the two categories of disputes, and thought should therefore be given to an appropriate procedure. No decision had been taken in that matter, either. It was inadvisable to place the matter before the First Committee since it would be unrealistic to conduct two debates on the same subject simultaneously in the First Committee and in the plenary Conference. With regard to the procedure to be followed, he planned to consult the Chairman of the First Committee after the latter had himself consulted with the delegations represented on the Committee, after which the whole question could be considered in the plenary Conference. He himself intended to pursue in informal plenary meetings the consideration of the unresolved points regarding the text on the settlement of disputes, especially annex I C. As to annex II, which dealt with special procedures, he thought that it would be useful to have a general debate on that text, although the outcome depended upon the decisions to be taken regarding the crucial questions to which he had just referred. It would no doubt then be possible to prepare a revised version of the single negotiating text.

¹ See *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).

7. There was still another question to be considered, namely, that of the preamble and the final clauses. There were many who felt that it was rather pointless to discuss the final clauses and the preamble before agreement had been reached on the first articles of the convention. That was true, but it had also been observed how difficult it was to make progress simultaneously on the four parts of the future convention. It would therefore be wise to deal with that problem now. He intended to call a plenary meeting in order to have a general discussion of the matter, focusing mainly on the final clauses, so as to clarify the over-all position of delegations, decide on the general tenor of the negotiating text to be drafted, and choose the person who was to be assigned that task.

8. He emphasized that it was essential at the present stage for the Chairmen of the Committees to have complete control over the development of their work instead of delegating that responsibility to working groups, negotiating groups or other workshops. Of course, it was not his intention to criticize the Chairmen of the Committees, who had done their utmost to make headway in their work. The Conference's progress or lack of it was attributable to all the participants. There was nothing to be gained by casting aspersions on one group or another. One could only hope that all members would now be ready to assume their responsibilities jointly before it was too late. The Conference could fully rely on the Secretariat, which was at the disposal of the Committees. He therefore suggested that the latter should also meet evenings whenever meeting services were available.

9. It would also soon be necessary to attend to the matter of the organization of the next session. It was too soon to take up that question at the current meeting, but he intended to submit a proposal at the plenary meeting to be held the following Monday after consulting the Chairmen of the Committees as well as the members of the General Committee. Delegations should therefore start thinking immediately about the most suitable time for holding the session, its possible length, and a schedule of work so that they would be prepared to discuss those matters at the beginning of the following week.

10. Mr. ENGO (United Republic of Cameroon), speaking in his capacity as Chairman of the First Committee, announced that in the afternoon the Special Representative of the Secretary-General would introduce the first of the reports which the Secretariat had been asked to prepare regarding the alternative means of financing the Enterprise. The First Committee would henceforth meet three times a day—morning, afternoon and evening.

11. Mr. AGUILAR (Venezuela), speaking in his capacity as Chairman of the Second Committee, said that negotiating group No. 4 would set to work that very afternoon and would undertake an examination of the question of straits used for international navigation. The Second Committee was aware of the need to make better use of the time remaining before the end of the session, and therefore it also intended to meet evenings.

12. The PRESIDENT thanked the Secretariat for conscientiously and efficiently performing the task entrusted to it in spite of the very limited time at its disposal.

The meeting rose at 11.10 a.m.