



Approved For Release 2002/04/01 : CIA-RDP82S00697R000300040044-5

UNITED NATIONS

**THIRD CONFERENCE
ON THE LAW OF THE SEA**

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IO:REFERENCE & DOCS
RM 1.238.57/10.000



PROVISIONAL

For participants only

A/CONF.62/C.2/SR.46

28 August 1974

ORIGINAL: ENGLISH

Second Session

SECOND COMMITTEE

PROVISIONAL SUMMARY RECORD OF THE FORTY-SIXTH MEETING

Held at the Parque Central, Caracas,
on Wednesday, 28 August 1974, at 4.50 p.m.

Chairman:

Mr. AGUILAR

Venezuela

Rapporteur:

Mr. NANDAN

Fiji

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DOCUMENTATION

The CHAIRMAN said that the final versions of informal working papers Nos. 1-13 were not yet available in all working languages. It was hoped, however, that they would be circulated to all delegations by 29 August at the latest.

He understood that it was the consensus of the Committee that the informal working papers should be incorporated into a single document with an index, a general introduction and explanatory notes.

It was so decided.

The CHAIRMAN said that it would not be possible to issue the consolidated document at the Conference, but it would be available through the normal channels in New York in September and would be sent to the delegations which were not Members of the United Nations.

STATEMENT ON THE WORK OF THE COMMITTEE (A/CONF.62/C.2/L.85)

Mr. NANDAN (Rapporteur) said that the statement on the Committee's work (A/CONF.62/C.2/L.85) reflected the decision by the Conference to prepare a concise, factual and non-controversial statement of the work of each of the main Committees. It did not attempt to deal with the substance of the issues before Committee or record the views expressed on them.

In order to reflect the decision taken by the Committee at the beginning of the meeting, the following paragraph would be included at the end of section IV:

"The Committee at its 46th meeting on 28 August 1974 decided to consolidate the 13 informal working papers into a single working document, which will form a basis for its future work. This document is contained in annex I".

The other two annexes referred to in section VII of document A/CONF.62/C.2/L.85 would be inserted after the close of the session. The list of documents would refer to the sponsor, title and symbol of each document submitted. The index to the summary records would refer for each meeting to the appropriate summary records, agenda item and list of speakers participating in the discussion.

Details such as the number of meetings would be inserted at the end of the session.

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(Mr. Nandon, Rapporteur)

Two foot-notes had been omitted from page 1 of the statement: the first read "A/CONF.62/SR.2"; the second, "A/CONF.62/SR.7". The first foot-note on page 9 should refer to SR.6, not SR.7.

In the preparation of the statement, he had not been able to consult with as many delegations as he would have wished, but he was grateful to the members of the Committee who had given him many helpful suggestions and comments.

Mr. WARIOBA (Tanzania) said that the decision to prepare the kind of statement now before the Committee had been taken at a secret meeting of the plenary Conference at which his delegation had not been able to give its views. He wished to place on record a formal reservation to the effect that the statement did not reflect what had been done at Caracas. Delegations had not come to Caracas to prepare a report on an agenda, the organization of work or documentation, a report which devoted less than a page to the 10 weeks of serious work. The Committee and the Conference should give the world a detailed account of what had been achieved, showing that progress had been made towards agreement. The statement gave the impression that the Conference had been a failure, which was not the case.

Mr. ZEGERS (Chile) and Mr. TREDINNICK (Bolivia) endorsed the comments made by the representative of Tanzania and entered formal reservations about the statement.

Mr. KNOKE (Federal Republic of Germany) said that his delegation did not share the pessimistic view which had been expressed about the statement. He quoted section VI which stated that the Committee had completed an essential phase of its work and had made significant progress. The pessimistic delegations should bring that point to the attention of the public.

The CHAIRMAN said that it would not be in order for the Committee to reopen a debate on the decision taken in the plenary, with which the Rapporteur had complied. He suggested that the Committee should take note of the statement on its work.

It was so decided.

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The CHAIRMAN said that there were a number of personal comments he wished to make about the work of the Committee.* The Second Committee had been given the task of considering some of the most complex and controversial issues of the Conference, a task rendered more difficult by the fact that less progress had been made in the preparatory work on the items involved than on those allocated to the other main Committees. The approach adopted to overcome the lag had been useful because the discussions had provided a better understanding of the interests and aspirations of the participating States. The main trends that had emerged in the form of proposals submitted to the United Nations Sea-Bed Committee and at the Conference itself had been summarized in 13 informal working papers. Those working papers, most of which had reached their final version, were the collective work of the Committee and would be consolidated in a single text. Together with the various proposals submitted and the summary records, they provided an over-all picture of the work of the Committee at the session. With the limitations and reservations to be indicated in the general introduction and with the explanatory notes, the document faithfully reflected the main positions on questions of substance. The document should serve as a reference and also as a basis and starting-point for the future work of the Committee. It would be senseless to repeat the process that had brought the Committee to that stage.

It was unfortunate that time had allowed a second reading only of the paper relating to item 2, territorial sea, in the examination of items regrouped in accordance with the degree of affinity between them. There was an obvious need for formal and informal conversations and negotiations at all levels in the interval before the next session so as to reduce the number of alternative texts of draft articles. He had abandoned the idea of undertaking the task himself out of deference to some delegations that had felt such a step might be premature and might compromise the success of future work.

Some of the results of the work of the Committee could not be reduced to figures or reflected adequately in records, reports or other documents. Although no decision on substantive issues had been taken at the session, and not a single article of the future Convention had been adopted, the participating States knew perfectly well which positions enjoyed support and which had not made headway. Despite the fact that the paper summing up the main trends did not indicate the support they commanded, it was easy for anyone who had followed the Committee's work

* Subsequently issued as document A/CONF.62/C.2/L.86.

(The Chairman)

closely to discern the outline of the future Convention. Each State had established its position in general terms, thereby laying the foundation for negotiation based on an objective and realistic evaluation of the relative strength of the different opinions. The idea of a territorial sea of 12 miles and an exclusive economic zone beyond the territorial sea up to a total maximum distance of 200 miles was the keystone of the compromise solution favoured by the majority of States participating in the Conference, although acceptance of the idea was of course dependent on the satisfactory resolution of other issues, such as passage through straits used for international navigation, the outermost limit of the continental shelf and the aspirations of the land-locked and other geographically disadvantaged countries, and there were still differences of opinion over the nature and characteristics of the concept of the exclusive economic zone. Substantial progress had been made on all the issues involved and the foundation had been laid for negotiations during the intersessional period and at the next session of the Conference.

The fundamental reason why the Second Committee had not achieved all that had been hoped was that the bases necessary for arriving at specific agreements on important and complex issues did not exist. The solution sought required a slow process of reflection and study. Much headway had been made at Caracas, and the Second Committee had worked soberly and constructively.

Mr. TELLO (Mexico) made a formal request for the substantive part of the Chairman's statement to be reproduced as an annex to document A/CONF.62/C.2/L.85.

Mr. GALINDO POHL (El Salvador), speaking on behalf of the group of Latin American countries, said that the Caracas session would be seen as a decisive step in the search for a new law of the sea. What had been achieved in Caracas would be the foundation for the work of the Geneva session. The records of the session did not show all that had been done; the informal work had been extremely useful. There was every reason to be optimistic about the outcome of the Conference.

Mr. PANUPONG (Thailand), speaking on behalf of the group of Asian countries, said that the work of the whole Conference depended on the work done in the Second Committee. The Asian countries were confident about the future work of the Conference.

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Mr. ROUX (France), speaking as Chairman of the group of Western European and other countries and also on behalf of the European Economic Community, said that the Committee had had to deal with the more complex and delicate issues of the Conference. Moreover, there had been less preparatory work on its agenda than on those of the other two Committees. It was gratifying that the Committee had succeeded in overcoming those handicaps and had made definite progress.

Mr. ABDEL HAMID (Egypt), speaking on behalf of the group of African countries, said that the delegations of those countries were satisfied that the Committee was pursuing the right course for successful negotiations leading to a new order in the international law of the sea.

Mr. PISK (Czechoslovakia), speaking on behalf of the Eastern European countries, said that the Committee had made positive progress on nearly all the issues on its agenda. It now had a set of documents on the basis of which progress could be made at the next session.

Mr. CISSE (Senegal) endorsed the comments of the Egyptian representative. The African countries were satisfied that a sound basis had been laid for the next session.

Mr. TARCICI (Yemen), speaking on behalf of the group of Arab countries, said that it was particularly gratifying that the Chairman of the Committee came from a country which had much in common with them - especially a warm climate and oil.

Mr. ROSHINE (Israel) said that although the results of the Committee's work might not fully meet the Chairman's hopes and expectations, they should not be underestimated. The Committee had overcome all its initial disadvantages and had prepared the basis for continuing its work.

Mr. STEVENSON (United States of America) said that the Committee was to be congratulated on having transformed a mass of draft articles into a series of clear and rational working papers which would give Governments a true picture of the alternative treaty texts. His delegation hoped to sign the treaty in Caracas next summer.

Mr. BRANKOVIC (Yugoslavia) said that he wished to join in the general congratulations to the Chairman and officers of the Committee and to the Secretariat.

Mr. DIALLO (Guinea) expressed concern at a report on the radio that more than 150 countries represented at the Conference had already opted for the 12-mile territorial sea and the economic zone. The Chairman had made a comment to the same effect in his informal statement. He did not know the basis for the information, and in any case the Chairman's statement, being a personal one, should not be appended to document A/CONF.62/C.2/L.85.

The facts were that the 200-mile territorial zone was supported by more than 20 African and Latin American countries and it was hoped that the figure would be more than a hundred by the next session. A committee of African, Asian and Latin American countries had been formed that day under the chairmanship of Ecuador. Those third world countries understood that in fact the economic zone, of which they had expected so much, was meaningless. The only alternative was a 200-mile territorial zone. They were ready to co-operate but not to support a system which would mortgage their national territory. Some African countries were prepared to sell themselves for dollars. The true African countries were the revolutionary ones, the countries of tomorrow, which supported the 200-mile territorial zone.

The CHAIRMAN said that press or radio reports should not be taken as gospel. His statement was a personal one and in no way engaged the Committee.

Mr. VALENCIA RODRIGUEZ (Ecuador) strongly endorsed the views expressed by the representative of Guinea with regard to the growing trend in favour of a territorial sea of 200 miles and also with regard to the inappropriateness of annexing the Chairman's statement to document A/CONF.62/C.2/L.85.

Mr. ZEGERS (Chile) proposed, in order to avoid conflict, that the Chairman's statement should be issued as a separate document of the Committee.

Mr. CIESE (Senegal), speaking in his capacity as Chairman of the African group, said that the heads of State of the OAU had not yet made any definitive pronouncement on the breadth of the territorial sea. The OAU would have to wait and see what kind of régime for the economic zone was likely before being able to formulate a final position on the territorial sea of 200 miles.

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(Mr. Cisse, Senegal)

His country for its part was willing to accept the 12-mile territorial sea on the condition that the economic zone was not stripped of all meaning.

Mr. ARIAS SCHREIBER (Peru) wondered whether the Chairman's statement was an accurate reflection of the work of the Committee, especially in the light of the statements which had just been made. Apparently the African countries had not reached a specific agreement on the question of the economic zone and there was still a division of opinions in the Committee on that item. The case was not yet closed.

Any régime which did not provide for the sovereign rights of the coastal State in its economic zone would be far removed from the original intentions of the authors of that concept and would leave no other alternative but a territorial sea of 200 miles. He respected the Chairman's right to an opinion which differed from his own but, as far as he was concerned, the Chairman's comments on the economic zone and territorial sea were subject to many qualifications.

Mr. NJENGA (Kenya), supported by Mr. ARAIM (Iraq), said that the Chairman had been careful to point out that his statement consisted of his personal observations. Therefore issuing it as an official text of the Committee would not prejudice the position of any delegation with regard to the territorial sea or the economic zone. The Rapporteur's statement on the work of the Committee was really only a skeleton report and without the Chairman's statement many delegations would have trouble following the debate which had taken place in the Committee. The Chairman's statement should be reproduced as a formal document of the Committee and in the event that any objections were raised his delegation would insist upon the application of the relevant provisions of the rules of procedure.

The CHAIRMAN acknowledged that a formal proposal had been made by the representative of Kenya and underlined that he had made his earlier statement in his personal capacity as Chairman of the Committee. If there were no objections, he would take it that the proposal was adopted.

It was so decided.

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The CHAIRMAN thanked the representatives of the regional groups for their tributes to him and to the officers of the Committee. He expressed his own appreciation to the Committee's officers and the personnel of the Secretariat for their contribution to the work of the Conference. On behalf of the Government of Venezuela he thanked all those who had expressed their appreciation of the hospitality of the Venezuelan people and Government.

The meeting rose at 6.35 p.m.