Third United Nations Conference on the Law of the Sea

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Summary Records of Plenary Meetings
51st plenary meeting

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume I (Summary Records of Plenary Meetings of the First and Second Sessions, and of Meetings of the General Committee, Second Session)*

51st meeting

Thursday, 29 August 1974, at 10.10 a.m.

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

Question of the communication to the President of the General Assembly (*concluded*)

1. The PRESIDENT read out the following text of the formula to be included in the communication to the President of the General Assembly:

"I wish to inform you that the Third United Nations Conference on the Law of the Sea decided to recommend to the General Assembly of the United Nations that:

"(*a*) Papua New Guinea, which is already conducting its own relations as an independent nation be invited, if independent, to attent any future session of the Conference as a full participant or, if not yet independent, to attend as an observer;

(*b*) The Cook Islands, Surinam and the Netherlands Antilles be invited to attend any future session of the Conference as observers or, should they by that time be independent, to attend as full participants."

2. Mr. TEMPLETON (New Zealand) thanked the Conference for having agreed to the request made by Australia, the Netherlands, and New Zealand to include the formula which had been read out in the communication to the President of the General Assembly. Nevertheless, his delegation believed that the opportunity of participating in future sessions of the Conference should not be limited to the four countries mentioned in the formula. The possibility of inviting other countries where appropriate should be kept open.

3. Sir Roger JACKLING (United Kingdom) shared the view expressed by the representative of New Zealand and proposed that the West Indies Associated States, which had the same political status as the four countries previously mentioned, be included in the formula. He reserved the position of his delegation with regard to any other countries pending a decision of the General Assembly on that point.

4. Mr. DE SOUZA (Jamaica), speaking on behalf of the Bahamas, Barbados, Guyana, Jamaica and Trinidad and Tobago, the Caribbean countries which were members of the British Commonwealth, welcomed the statement made by the representative of the United Kingdom concerning the invitation to be extended to the territories which were not yet independent. He was pleased that the United Kingdom had recognized the status of the West Indies Associated States and proposed that the phrase "and the West Indies Associated States" be inserted in paragraph (*b*) after the words "Netherlands Antilles" and that the conjunction "and" preceding those words be deleted.

5. Mr. YANKOV (Bulgaria) proposed that the words "full participant" used in paragraphs (*a*) and (*b*) be replaced by the words "State participating" which appeared in rule 40 of the rules of procedure.

The formula, as amended, was adopted.

6. The PRESIDENT reviewed the steps which would have to be taken, if necessary, in order to extend the next session of the Conference and suggested that the Conference should formally request the Secretary-General of the United Nations to advise the Director-General of the World Health Organization of the problem well in advance of the adoption of a General Assembly resolution with regard to the dates of the next session of the Conference. If there were no objections, he would take it that the suggestion was adopted.

It was so decided.

Introduction of document A/CONF.62/L.7

7. Mr. GALINDO POHL (El Salvador), introducing document A/CONF.62/L.7 on the settlement of disputes, said that the working paper was an attempt to combine the results of informal consultations held since 31 July by some 30 delegations representing all geographical groups and all levels of development. The question of procedures for the settlement of disputes had hardly been considered during the present session, but it would probably be given priority during the next session. The satisfactory solution of that question would greatly affect the final result of the Third United Nations Conference on the Law of the Sea.

8. The working paper, which was provisional in character, dealt with only some fundamental points and it would need to be completed and clarified. Once an agreement on the essential elements had been reached, it would be easier to arrive at a solution of the less important points.

9. His delegation believed that the Conference should first deal with the question of international disputes, basing itself on certain fundamental premises, in particular the following: first, the settlement of disputes by legal, effective means in order to avoid political and economic pressures; secondly, some uniformity in the interpretation of the future convention should be sought; thirdly, the recognition of the advantages offered by obligatory settlement of disputes, taking into account some exceptions which had to be determined with the greatest care; fourthly, the firm conviction that if the future convention was to be signed and ratified, then the system of the settlement of disputes must be an integral part and must constitute an essential element of that convention. It was thus assumed that the law was the most appropriate method of regulating international relations and preserving the quality of States, regardless of their political, economic and military might. That principle of strict legality, which implied the effective application of agreed rules, should be the principal element on which the future convention on the law of the sea would be based.

10. It would be regrettable if a solution similar to that of 1958 were to be adopted for the settlement of disputes. An optional protocol would appear to be totally inadequate; it would prove ineffective and would be an obstacle to the ratification and even the signing of the future convention. On the contrary, the incorporation of appropriate provisions in the instrument itself seemed to be the only effective solution, bearing in mind the great changes which the new convention would introduce into the field of conventional law of the sea. Nevertheless, even if the principle of strict legality were adopted, certain insurmountable obstacles, particularly with regard to constitutional and fundamental elements in the structure of States would remain. It was for that reason that among the exceptions to which obligatory jurisdiction did not apply were the questions directly related to the territorial integrity of States. Otherwise, the convention would go too far and might dissuade a number of States from ratifying and even signing it. The absence of obligatory jurisdiction in such cases, however, left open recourse to non-obligatory means of peaceful settlement.

11. It was to hoped that there would be continuously increasing recourse to procedures which, while ensuring the objectivity and impartiality of decisions, would permit the solution of the problems of interpretation and application in the future convention since it would, particularly in the early years, inevitably give rise to controversies.